

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 11-20129

Case No. 11-20066

-V-

SCOTT WILLIAM SUTHERLAND, D-1,  
PATRICK MICHAEL MCKEOUN, D-4,  
JEFF GARVIN SMITH, D-5/D-1,  
PAUL ANTHONY DARRAH, D-6/D-2,  
CARY DALE VANDIVER, D-7/D-5,  
VINCENT WITORT, D-8,  
DAVID RANDY DROZDOWSKI, D-17,

Defendants.

1

EXCERPT OF JURY TRIAL, VOLUME IV

BEFORE THE HONORABLE ROBERT H. CLELAND  
United States District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan  
Monday, October 20, 2014

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24 Proceedings produced by mechanical stenography.  
Transcript produced by computer-aided Transcription.

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1      Detroit, Michigan

2      October 20, 2014

3      9:09 a.m.

4                          \*                          \*

5                          (Call to Order of the Court; all parties present.)

6                          THE CLERK: Calling case Nos. 11-20129, and 11-20066,

7                          United States of America vs. Scott Sutherland and others.

8                          THE COURT: Good morning. The Court notes the  
9 presence of all attorneys and all defendants. Be seated,  
10 please. We have a number of things to briefly, I hope, discuss  
11 before the jury comes out. The jury is waiting in the jury  
12 room to begin this morning.

13                          With respect to Mr. Darrah, I have on the bench, filed  
14 on the 13th, emergency motion for bond in consideration of  
15 medical status. Subsequently, I told Ms. Maceroni that I would  
16 seek a report from the medical staff at Wayne County Jail with  
17 respect to Mr. Darrah's condition. And that report has been  
18 received by e-mail, and a copy of the relevant portion of the  
19 e-mail and provided it to Ms. Maceroni.

20                          And it appears to me from the substance of the e-mail,  
21 produced by the doctor in charge, that the matter is under  
22 review. He's pending hematology reports, pending a  
23 colonoscopy. And the situation is, as far as I can tell, being  
24 monitored, Ms. Maceroni. I, I at this point, I do not see --  
25 there's no particularly emergent situation. As a matter of

1 fact, the doctor describes him as being in stable condition.

2 So if there's something you wanted to add to that now.

3 MS. MACERONI: Your Honor, I would just point out, you  
4 know, the doctor does say he's awaiting a hematology consult,  
5 as well as a colonoscopy. My concern is when is that going to  
6 happen.

7 THE COURT: Well, that's the question that only the  
8 doctor can answer, I think.

9 MS. MACERONI: And --

10 THE COURT: There's no way for me to predict and  
11 manage that from the bench.

12 MS. MACERONI: I mean, if they are not scheduled --  
13 they didn't even schedule him for the MRI until our break of  
14 the first week of December. So that's another five to six  
15 weeks, where he's sitting here with an anemic condition.

16 THE COURT: Okay.

17 MS. MACERONI: And with a colonoscopy, the prep for  
18 that is horrible. So he's going do that at the trial or he's  
19 going to do that at the jail?

20 THE COURT: I don't know. But I do know the doctor  
21 says he's in stable condition. He's pending various test  
22 results and I do not see this as being an emergent situation.

23 MS. MACERONI: With all due respect, Judge, I  
24 disagree.

25 THE COURT: Thank you, Miss Maceroni. To be clear, to

1      the extent I haven't already ruled on it, the document No.  
2      1037, emergency motion for bond, for release on bond, that is  
3      denied without prejudice.

4                  With respect to -- let's see, the Government presented  
5      a memorandum of law regarding leading questions and refreshing  
6      recollection. Thank you for that. I have that. And I think I  
7      understand the law in that regard. And that's good. The bench  
8      brief of that sort is often helpful.

9                  I have this morning, I don't know what document number  
10     it is or if it's even been filed, but a motion by Ms. Stout  
11     with respect to discovery and so forth. I'm not sure what the  
12     date of this is. October 19th, it says. So I've seen this  
13     before, presumably.

14                MS. STOUT: Your Honor, I tried to E-file it last  
15     night. I kept getting a message my password is invalid. I  
16     don't know why.

17                THE COURT: With respect to filing, there's something  
18     to be handled, I guess. The question that you raise is with  
19     respect to the status of discovery, the volume of discovery,  
20     late-breaking discovery, and so forth. Can we, can we handle  
21     the continued examination of the witness that is on the bench  
22     now, take these matters up?

23                MS. STOUT: Of course, your Honor.

24                THE COURT: Because your concern is an ongoing  
25     concern.

1 MS. STOUT: Of course, your Honor.

2 THE COURT: It's been described earlier. It's been  
3 debated and discussed. We've made a fairly extensive record in  
4 that regard already. So is there anything else that we need to  
5 talk about before we bring the witness on the stand to  
6 continue, and perhaps conclude his testimony? I don't see  
7 anything else.

8 Is the witness in the adjoining room perhaps?

9 MS. MOHSIN: The witness is outside. I'm told that he  
10 had to use the restroom. He may be back by now.

11 THE COURT: Okay. If you could check on that. And  
12 one of the CSO's could put the silence sign out in the hallway  
13 where it normally goes, please. It's in the courtroom, I see.

14 MS. MOHSIN: He's ready, your Honor.

15 THE COURT: Okay. Let's assemble the jury, please.  
16 The witness may come up here and stand by the witness stand  
17 while the jury is being lined up.

18 The record should reflect that we've distributed the  
19 consolidated, redacted indictment form to the jurors' chairs.  
20 Counsel have a copy of that as well. I'll mention that to the  
21 jury. I won't need to mention it because they won't be able to  
22 sit down, actually, until they pick up the papers, so.

23 (Brief pause.)

24 (Jury in, 9:15 a.m.)

25 THE COURT: Ms. Stout. Is there any assistance you

1      want with respect to password? Should we provide any  
2      assistance in the meanwhile, IT people or something like that?

3            MS. STOUT: No, thank you, your Honor. There's an 800  
4      number, but there's a specific time and I couldn't reach them  
5      when I filed it or this morning.

6            THE COURT: If you think we can help, let us know.

7            MS. STOUT: Thank you.

8            THE COURT: All right. Ladies and gentlemen, the  
9      papers -- good morning, first. And the papers that you have  
10     are the consolidated, redacted indictment. I'll just tell you  
11     about that in just a moment.

12           The jury is assembled. All parties are here. Please  
13     be seated. Witness, you can be seated in the witness box.

14           The papers you have I've had three hole punched so you  
15     can put them in your binder. This is, again, the language  
16     indictment, which is the charging document, the document that  
17     outlines the Government's charges against these, these  
18     defendants, perhaps as well as some other defendants that may  
19     be mentioned in the language of the indictment.

20           I'm providing these papers to you as a kind of an  
21     outline of what we're here about, the charges brought by the  
22     Government.

23           Now, again in passing these things out, I want to  
24     remind you something I said to you during jury selection and in  
25     my initial comments. The indictment is the Government's

1 outline of the case. It's not evidence in and of itself. It  
2 doesn't provide anything more than a road map to the case that  
3 the Government is presenting and that the defendants are  
4 responding to or reacting to.

5 So it is, it is a set of allegations, a set of claims,  
6 and not anything more than that. My hope is that for you, as  
7 well as other jurors and the juries in the past, may find it  
8 helpful to keep track of things, to make notes on it, for  
9 whatever purpose, whatever help that may be.

10 Okay. The witness is on the stand. I think this is  
11 Mr. Peters?

12 THE WITNESS: Yes.

13 THE COURT: Your oath continues, sir. You understand  
14 that?

15 THE WITNESS: Yes.

16 THE COURT: And so I think he was turned over to  
17 cross-examination.

18 Ms. Stout, are you prepared?

19 MS. STOUT: I am, sir.

20 THE COURT: Go ahead.

21 MS. STOUT: Thank you, your Honor.

22 (Gerald Peters, Jr., Witness previously sworn.)

23 CROSS-EXAMINATION

24 BY MS. STOUT:

25 Q. Good morning, Mr. Peters.

1      A. Good morning.

2      Q. Mr. Peters, you, you were not a Devils Diciple; is that

3      accurate?

4      A. Yes.

5      Q. You were never a Devils Diciple, correct?

6      A. Correct.

7      Q. And you certainly don't know all the members of the Devils

8      Diciples Motorcycle Club, do you?

9      A. No.

10     Q. Now, the Highwaymen, which is the organization you belong

11     to, correct?

12     A. Yes.

13     Q. They had what's called a constitution; is that accurate?

14     A. Yes.

15     Q. And that set forth rules that the club members should abide

16     by?

17     A. Yes.

18     Q. You didn't adopt the bylaws that the Devils Diciples used,

19     did you?

20     A. No.

21     Q. You created your own rules?

22     A. Yes.

23     Q. And you said, I think, and correct me if I'm wrong, on

24     Friday, that you joined for some protection or membership due

25     to the conflicts in southwest Detroit?

1      A. It was just, you joined Highwaymen or Latin Counts.

2      Q. Okay. Now, you testified previously, I believe it was 2010  
3      in another trial?

4      A. Correct.

5      Q. And that was the trial of the Highwaymen, accurate?

6      A. Yes.

7      Q. Now, I'm assuming at that time, you tried to make every  
8      effort to tell the truth?

9      A. Yes.

10     Q. Now, you are no longer facing life for the RICO charge, is  
11     that accurate, at the time of the trial?

12     A. Yes.

13     Q. However, you were still facing guidelines that were ten  
14     years plus; is that accurate?

15     A. Yes.

16     Q. Because although the Government had told you they were  
17     going to recommend a reduction if you substantially assisted,  
18     you hadn't gotten that yet, correct?

19     A. Correct.

20     Q. So your testimony was still dependent upon your substantial  
21     assistance?

22     A. Yes.

23     Q. Thank you.

24                  Now, during that trial, you testified that the  
25                  Highwaymen itself is not an illegal entity, correct?

1 A. Correct.

2 Q. And you testified, rather, that just some members did some  
3 illegal acts?

4 A. Yes.

5 Q. You also testified at that time that you're a big guy?

6 A. Correct. Yes.

7 Q. I think you said you were 6'6"?

8 A. Six five.

9 Q. Are you exaggerating?

10 A. No.

11 Q. You're 6'5" and you weighed 335?

12 A. Yes. At that time, yes.

13 Q. Prison has caused you to lose a little weight?

14 A. A little bit.

15 Q. Okay. You said you could take care of yourself at that  
16 trial.

17 A. Yes.

18 Q. You didn't need a club to take care of you?

19 A. Correct.

20 Q. That your problems were your problems?

21 A. Yes.

22 Q. Your debts were your debts?

23 A. Yes.

24 Q. Your business was your business?

25 A. Yes.

1 Q. Your income was your income?

2 A. Yes.

3 Q. Nothing to do, necessarily, with the club?

4 A. Correct.

5 Q. You also testified at that trial that you even ripped off  
6 some of your own club members.

7 A. Yes.

8 Q. Accurate?

9 I think you said you stole some things?

10 A. Yes.

11 Q. From club members?

12 And you testified that, overall, you considered your  
13 club membership a legal organization?

14 A. Yes.

15 Q. I won't keep you much longer, because it's my understanding  
16 you're on your way to a halfway house; is that accurate?

17 A. I don't know that, ma'am.

18 Q. You're hopeful?

19 A. I was hopeful, but I lost in August 5th I was supposed to  
20 be at the halfway house.

21 Q. So you completed your prison term and were supposed to be  
22 released to what's called a residential reentry program?

23 A. Yes. But that didn't happen.

24 Q. And because you're here, unfortunately?

25 A. Yes.

1 Q. That might be delayed? Or that is delayed?

2 A. Yes.

3 Q. You received a large amount of money, right, to assist you  
4 in this whole situation, correct?

5 A. Well --

6 Q. Relatively large?

7 A. Yeah. Relatively large.

8 Q. 10,700?

9 A. 10,400.

10 Q. \$10,400?

11 And now, when you relocate, when you're done with  
12 this, and you will be done today with this testimony, you,  
13 you're going to start over. Your life starts over, correct?

14 A. Yes.

15 Q. Your past sins are washed away?

16 A. Yes.

17 MS. STOUT: Thank you, sir.

18 THE WITNESS: You're welcome.

19 THE COURT: Others?

20 MR. DALY: Thank you.

21 THE COURT: Mr. Daly?

22 CROSS-EXAMINATION

23 BY MR. DALY:

24 Q. Mr. Peters, you told the jury back on Friday that you grew  
25 up in southwest Detroit; is that correct?

1 A. Yes.

2 Q. And you believe that you had two choices when you were  
3 growing up, right?

4 A. Yes.

5 Q. You would either join the Latin Counts or you would join  
6 the Highwaymen, correct?

7 A. Yes.

8 Q. And you, excuse me, you chose the Highwaymen because you  
9 believe that they were the baddest of the bad, right?

10 A. Yes.

11 Q. And nobody would mess with the Highwaymen, right?

12 A. Yes.

13 Q. Now, because you joined the Highwaymen, you wanted to be  
14 bad, right?

15 A. Yes.

16 Q. You wanted the power?

17 A. Yes.

18 Q. You wanted to party?

19 A. Yes.

20 Q. You wanted fun?

21 A. Yes.

22 Q. You wanted drugs?

23 A. Yes.

24 Q. Now, when you joined the Highwaymen, that was a long time  
25 ago, correct?

1 A. Yes.

2 Q. You can't remember exactly when you joined the Highwaymen,  
3 right?

4 A. '98.

5 Q. You say it was in 1998, correct?

6 A. Yeah. '98 or '99. I'm sorry. One of the years.

7 Q. One of the two; you're not certain, correct?

8 A. Correct.

9 Q. You joined when you were either 24 or 25; is that right?

10 A. Yes.

11 Q. And when you joined the Highwaymen, did you do that, Mr.  
12 Peters, freely?

13 A. Yes.

14 Q. Voluntarily?

15 A. Yes.

16 Q. Did somebody put a gun to your head and say, well, you need  
17 to join the Highwaymen?

18 A. No.

19 Q. Now, when you joined the Highwaymen, did you have a  
20 criminal record?

21 A. No.

22 Q. And had you been involved in criminal activity before you  
23 joined the Highwaymen?

24 A. Yes, a little bit.

25 Q. A little bit. Like what?

1 A. Selling drugs.

2 Q. What kind of drugs were you selling before you joined the  
3 Highwaymen?

4 A. Marijuana.

5 Q. And were you selling marijuana on a large scale or small  
6 scale?

7 A. Small scale.

8 Q. To friends?

9 A. Yeah.

10 Q. To make some money?

11 A. Yes.

12 Q. Create some income?

13 A. Yes.

14 Q. All right. So you consider that to be small-time criminal  
15 activity, right?

16 A. Yes.

17 Q. And were you charged with your marijuana dealings before  
18 you joined the Highwaymen?

19 A. No.

20 Q. So you told the jury that you voluntarily joined the  
21 Highwaymen, correct?

22 A. Yes.

23 Q. And that was a choice that you made?

24 A. Yes.

25 Q. And you could have, if you decided to do so, further your

1 education, correct?

2 A. Correct.

3 Q. I mean, you could have gone to college, right?

4 A. Yes.

5 Q. Was there anything preventing you from going to college?

6 A. No.

7 Q. No. You could have become a teacher? Right?

8 A. Right.

9 Q. A lawyer?

10 A. Yes.

11 Q. Could have been sitting right here with the Government  
12 lawyers, right?

13 A. Yes.

14 Q. Nothing that prevented you from doing that, right?

15 A. Yes.

16 Q. And before you joined the Highwaymen, did you have a job?

17 A. Yeah.

18 Q. And so you were working?

19 A. Yes.

20 Q. 9 to 5?

21 A. Yes.

22 Q. Making money, right?

23 A. Yes.

24 Q. Supporting your family, right?

25 A. Yes.

1 Q. And you had, what, six kids?

2 A. Not at that time.

3 Q. How many kids did you have --

4 A. One at that time.

5 Q. -- at that time? I'm sorry?

6 A. One.

7 Q. One. How many do you have now?

8 A. Six.

9 Q. Six. So you had a large family to support; is that  
10 correct?

11 A. Yes.

12 Q. So before joining the Highwaymen, you had a legitimate job,  
13 correct?

14 A. Yes.

15 Q. You could have gone straight?

16 A. Yes.

17 Q. But once you joined the Highwaymen, you lost your  
18 legitimate job; is that correct?

19 A. Yes.

20 Q. And the reason why you lost the job is because you were  
21 partying, excuse me, having fun with the Highwaymen  
22 essentially, right?

23 A. Yes.

24 Q. I mean, going to the club whenever they wanted you to go,  
25 correct?

1 A. Yes.

2 Q. Doing drugs?

3 A. Yes.

4 Q. Right? Right?

5 A. Yes.

6 Q. Cocaine?

7 A. Yes.

8 Q. Marijuana?

9 A. No.

10 Q. Just cocaine?

11 A. Just cocaine.

12 Q. That was your drug of choice, correct?

13 A. Yes.

14 Q. Now, you told the jury on Friday that your nickname was  
15 "Byrd," correct?

16 A. Yes.

17 Q. And you just told Ms. Stout -- this is Ms. Stout here, the  
18 defense lawyer -- that back when you joined the Highwaymen, you  
19 were a big guy?

20 A. Yes.

21 Q. Still a big guy, right?

22 A. Yes.

23 Q. 6 foot 5, right?

24 A. Yes.

25 Q. You haven't shrunk since you've been in prison, have you?

1 A. A little bit. Not much.

2 Q. A little bit. How tall are you now?

3 A. 6'5". I ain't shrunk not height-wise, weight-wise.

4 Q. Okay. Back then when you joined the Highwaymen, how much  
5 did you weigh?

6 A. About 340, 350.

7 Q. 340 or 350. That's a big guy, right?

8 A. Yes.

9 Q. And how much do you weigh now?

10 A. 315.

11 Q. Okay. So I take it the food in prison is not real good,  
12 huh?

13 A. Correct.

14 Q. Right. And that's why you've lost some weight?

15 A. Yes.

16 Q. You went by the name "Byrd," right?

17 A. Yes.

18 Q. Is that short for, like, Big Bird, like, Sesame Street  
19 Bird?

20 A. No, just Byrd.

21 Q. Just Byrd?

22 A. Yeah.

23 Q. You're sure now?

24 A. Yes.

25 Q. Now, not knowing exactly when you joined the Highwaymen, do

1      you know when you met individuals from the Devils Diciples?

2    A. Yeah. The early 2000s.

3    Q. Early 2000s, which means it could be 2000?

4    A. 2000 is --

5    Q. It could be --

6    A. -- when I first met them.

7    Q. I'm sorry. One at a time. Okay?

8    A. I'm sorry.

9    Q. That's fine. We don't want to talk at the same time,  
10 right?

11   A. Yeah.

12   Q. Okay. Could be 2000, could be 2001, could be 2002, right?

13   A. Yep.

14   Q. Is that a yes?

15   A. I met them, actually, in 2000.

16   Q. That's to the best of your recollection, right?

17   A. Yes.

18   Q. But it could be even later, right?

19   A. Maybe years, maybe a year later.

20   Q. Maybe --

21   A. Could be, but I -- yeah. About maybe a year later.

22   Q. Okay. So either 2000 or 2001?

23   A. Yes.

24   Q. That you started meeting members of the Devils Diciples; is  
25 that correct?

1      A. Yes.

2      Q. All right. On last Friday when you testified, you  
3      described an incident with a person that you identified as  
4      Scotty Z; is that correct?

5      A. Yes.

6      Q. Now, that incident happened in the late 1990s; isn't that  
7      correct?

8      A. No. 2000, early 2000s.

9      Q. Do you remember speaking to the Federal Government about  
10     this particular incident and describing when it happened?

11     A. No, not really.

12     Q. Not really?

13                 And as an offer of proof, on September 17th, 2014, in  
14     speaking with Mr. Fleming, who is missing, all right, but in  
15     any event, on September 17th, 2014, did you tell Mr. Fleming in  
16     the presence of the Government lawyers who are sitting here,  
17     meaning Ms. Mohsin, Ms. Maiatico, and Mr. Straus, did you tell  
18     them --

19                 MR. MAIATICO: Objection, your Honor. If the, if  
20     counsel is attempting to refresh a recollection, he can show  
21     him that document.

22                 MR. DALY: I can do it that way or I can just make a  
23     proffer, Judge, whatever you prefer.

24                 THE COURT: Let's try to refresh recollection first in  
25     showing the witness, showing him the document.

1                   MR. DALY: Sure. Certainly.

2 BY MR. DALY:

3 Q. Do you remember speaking --

4                   THE COURT: Just show him the document. Show him the  
5 and ask him if it refreshes his recollection. The Government  
6 knows what document you're referring to, I presume?

7                   MR. DALY: Yes.

8                   THE COURT: Go ahead.

9                   MR. DALY: You have the document?

10                  MR. MAIATICO: Yes.

11                  MR. DALY: May I approach the witness?

12                  THE COURT: Yes.

13                  MR. DALY: Thank you.

14 BY MR. DALY:

15 Q. I'm going to show you a copy of a report. This is an FBI  
16 official report of September 17th --

17                  THE COURT: Mr. Daly, let's just show him the  
18 document.

19                  MR. DALY: Judge, I am.

20 BY MR. DALY:

21 Q. And at the beginning, it talks about Scotty Z; is that  
22 correct?

23 A. Yeah, here.

24 Q. Yes. And in the beginning, you were talking about this  
25 incident that we're going to get to in a moment and --

1           THE COURT: Here's the procedure. Show him the  
2 document. Ask him to read a portion of it. Ask him if it  
3 refreshes his recollection. And if it does, draw the testimony  
4 out. This is more elaborate than it needs to be, I think,  
5 under these circumstances.

6           Are you reading the parts?

7           THE WITNESS: Yes. I remember it. Yes.

8           THE COURT: Okay. Now go ahead, Mr. Daly.

9 BY MR. DALY:

10 Q. Have you read that first portion of what you told them --

11 A. Yeah.

12 Q. -- at that time?

13 A. In the late, in 90's, yes.

14 Q. Okay. So that refreshes your recollection that when you  
15 spoke to the Government about this incident, you told them that  
16 it happened in the late 1990s; is that correct?

17 A. Yes.

18 Q. And when you told him that, you told him the truth, right?

19 A. Yes.

20 Q. So it's still true today, isn't it?

21 A. Yes.

22 Q. All right. So in this incident in the late 1990s, we're  
23 talking over 15 years ago, correct?

24 A. Yes.

25 Q. And obviously, you don't know the exact date or month,

1      correct, or the day of the week?

2      A. Yes.

3      Q. Other than it was in the late 1990s, correct?

4      A. Yes.

5      Q. And in this incident that you described last Friday, you  
6      had a personal problem, didn't you?

7      A. Yes.

8      Q. And the personal problem that you had was with an  
9      ex-boyfriend; is that correct?

10     A. Yes.

11     Q. And the ex-boyfriend of your current girlfriend in the late  
12    1990s, over 15 years ago, was messing with your girlfriend,  
13    right?

14     A. Yes.

15     Q. And what this ex-boyfriend was doing is that he was  
16    harassing your current girlfriend, right?

17     A. Yes.

18     Q. And he was breaking out the windows of her vehicle; is that  
19    correct?

20     A. Yes.

21     Q. And doing other things to harass her. And you wanted the  
22    ex-boyfriend to "move on." Correct?

23     A. Yes.

24     Q. And you had a couple of choices to deal with the  
25    ex-boyfriend, right?

1 A. Yes.

2 Q. One choice would be that you would have taken care of it  
3 yourself.

4 A. Yes.

5 Q. Right?

6 And what was the ex-boyfriend's name?

7 A. I don't know. I don't remember.

8 Q. You have no idea?

9 A. No.

10 Q. Do you know where he lived?

11 A. Yeah, Warrendale.

12 Q. On Warrendale?

13 A. No. In Warrendale. I'm sorry.

14 Q. I'm sorry.

15 A. Warrendale is a little area of Detroit.

16 Q. Okay. Warrendale is an area in Detroit. It is not a  
17 street; is that correct?

18 A. Correct.

19 Q. So you didn't know exactly where he lived?

20 A. At that time, I did.

21 Q. You did.

22 A. Yes.

23 Q. What was the street that he lived at?

24 A. It's been a long time.

25 Q. You don't remember?

1 A. I don't remember.

2 Q. Now, this personal problem that you had with this  
3 ex-boyfriend, that was not club business, was it?

4 A. Correct.

5 Q. So in this personal problem that you had back in the 1990s  
6 when you were a Highwaymen, you were not the national boss at  
7 that time; is that correct?

8 A. Correct.

9 Q. In fact, you were not the national boss until 2003 or 2004;  
10 is that correct?

11 A. 2003 till 2004.

12 Q. That's when you were the national boss?

13 A. Yes.

14 Q. Correct? Okay.

15 So when you had this personal problem with this  
16 ex-boyfriend, you didn't go to the national president of the  
17 Devils Diciples to ask his permission for anything, did you?

18 A. No.

19 Q. You didn't ask for a club meeting among the Devils Diciples  
20 or the Highwaymen for a meeting to deal with your personal  
21 problem, did you?

22 A. No.

23 Q. You didn't go to Fat Dog, did you?

24 A. No.

25 Q. Now, you talked to a person that you said, back on Friday,

1      was a person that you identified as "BJ"; is that correct?

2      A. Yes.

3      Q. And you spoke with BJ about your personal problems,  
4      correct?

5      A. Yes.

6      Q. And he made a suggestion to you that you testified to,  
7      correct?

8      A. Yes.

9      Q. And BJ is dead, isn't he?

10     A. Yes.

11     Q. Died back in 2006?

12     A. I believe so.

13     Q. About ballpark?

14     A. Yeah, I believe so.

15     Q. Okay. And BJ was a person who took a lot of drugs and  
16     alcohol, right?

17     A. Yes.

18     Q. And so we can't bring BJ into court, unless we brought him  
19     in a coffin to have him testify as to what that conversation  
20     was about, right?

21     A. Right.

22     Q. So after talking with BJ, did you speak directly to Scotty  
23     Z?

24     A. Yes.

25     Q. And did you ask him for help in your personal matter?

1 A. Yes.

2 Q. About the old boyfriend? Right?

3 A. Yes.

4 Q. And this was like, more like man-to-man kind of  
5 conversation, right?

6 A. Correct.

7 Q. Right. You were asking him for, in essence, a favor,  
8 right?

9 A. Yes.

10 Q. And do you remember the date or the day that you asked him  
11 for this favor?

12 A. No.

13 Q. And who was present when you asked him for this personal  
14 favor?

15 A. It was over the phone.

16 Q. Over the phone.

17 So the only people are you and Mr. Scotty Z, who are  
18 speaking; is that correct?

19 A. Yes.

20 Q. And as far as you knew, this boyfriend and this personal  
21 matter that you had did not know who Scotty Z was, right?

22 A. Yes.

23 Q. And quite frankly, this personal problem that you had was  
24 really in the context of all the stuff that you told the jury  
25 last Friday, this was really a little bit, right?

1 A. Yes.

2 Q. Not a big deal, right?

3 A. Correct.

4 Q. Not part of some big RICO conspiracy that the Government  
5 has conjured up, right?

6 A. Right.

7 Q. You'd agree with that, right?

8 A. Right.

9 Q. All right. Now, after you sent or asked Scotty Z to do  
10 this personal favor for you, did you go with him?

11 A. No.

12 Q. Were you an eyewitness to what had happened or didn't  
13 happen?

14 A. No. I took his word for it.

15 Q. Okay. So later on, you heard about it, right?

16 A. Yes.

17 Q. And you said that you heard about it from Scotty Z?

18 A. Yes.

19 Q. And you took his word for it, right?

20 A. Yes.

21 Q. But you know in the club business, that it's not uncommon  
22 for people to say things that, quite frankly, aren't true,  
23 right?

24 A. Yes. That's true.

25 Q. And often in the club business, and I'm talking about the

1      motorcycle club business, people boast about things that they  
2      do that they, in fact, don't do. You know that to be true,  
3      right?

4      A. Yes.

5      Q. That was pretty common back in those days, right?

6      A. Yes.

7      Q. People try to build themselves up, right?

8      A. Yes.

9      Q. So in fact, you have no personal first-hand knowledge that  
10     Scotty Z did anything, right?

11     A. No.

12     Q. You're agreeing with me?

13     A. Yes.

14     Q. All right. Now, back in the day when we're talking about,  
15     were you using cocaine?

16     A. Yes.

17     Q. And did you know that Scotty Z also was using cocaine?

18     A. Yes.

19     Q. All right. And that's why you gave Scotty Z a quarter  
20     ounce of cocaine, right?

21     A. Yes.

22     Q. So the payment for this personal favor was a small amount  
23     of cocaine for Scotty to use for himself, right?

24     A. Yes.

25     Q. All right. Now, I take it, Mr. Peters, that in the scheme

1      of things, if you wanted to deal with a person who is giving  
2      you a problem and you wanted to scare them, that was something  
3      that normally you would do yourself, right?

4      A.    Correct.

5      Q.    You would take care of it yourself?

6      A.    Yes.

7      Q.    Being the fact that you were a big guy, right?

8      A.    Yes.

9      Q.    And you had been in plenty of fights, both before you were  
10     a Highwaymen and during the time that you were a Highwaymen,  
11     correct?

12     A.    Yes.

13     Q.    And I mean, that's part of the biker culture, to fight,  
14     isn't it?

15     A.    Yes.

16     Q.    I mean, you guys would go out, you'd go to bars and you do  
17     your cocaine, right?

18     A.    Yes.

19     Q.    Do your alcohol, right?

20     A.    Yes.

21     Q.    Get high?

22     A.    Yes.

23     Q.    Right?

24                  Go to the bars and fight other clubs. I mean, that's  
25     just what you guys did, in part, right?

1 A. Yes. It happened sometimes.

2 Q. Quite often, right?

3 A. Well, I wouldn't say quite often, but sometimes.

4 Q. Were you the type of person, Mr. Peters, that liked to  
5 instill fear in other people?

6 A. Yes.

7 Q. All right. And that was part of the power that you had as  
8 a Highwaymen, right?

9 A. Yes.

10 Q. And in fact, when you joined the Highwaymen, you didn't  
11 have to go through probation, did you?

12 A. Correct.

13 Q. And the reason why you didn't have to go through probation  
14 is that because you were such a fighter, that they just wanted  
15 you in the club. Essentially, that's what happened, right?

16 A. Correct.

17 Q. And in fact, Scotty Z was a person who was, what, about  
18 half your size, ballpark?

19 A. Yes.

20 Q. Yeah. So it would take two Scotty Z's stacked on each  
21 other to make one "big Byrd," right?

22 A. Okay. Yes.

23 Q. I mean, that's, that's essentially what it was, right?

24 And so then, according to your story, that you can't  
25 confirm, you sent Mr. Scotty Z to take care of your personal

1 problems, right?

2 A. Yes.

3 Q. I want to talk to you, Mr. Peters, about going to a  
4 clubhouse in Mount Clemens that you testified about on Friday.  
5 Do you remember that?

6 A. Yes.

7 Q. It was in Mount Clemens; is that correct?

8 A. Yes, I believe so.

9 Q. You're not certain about that?

10 A. No. I'm not sure where, exactly where their clubhouse is  
11 exactly at.

12 Q. You mean the exact location --

13 A. Yeah.

14 Q. -- or -- I'm sorry. Go ahead.

15 A. Exact location.

16 Q. Okay. Now, this was a party at the clubhouse; is that  
17 correct?

18 A. A steak fry they had.

19 Q. A steak fry?

20 A. Yeah.

21 Q. And did you have to pay to get in the steak fry?

22 A. Yeah.

23 Q. What was it, \$10 or --

24 A. I think so, something like that.

25 Q. That was pretty common practice; is that correct?

1 A. Yes.

2 Q. And members of the Devils Diciples were there?

3 A. Yes.

4 Q. Members of the Highwaymen were there?

5 A. Yes.

6 Q. People from outside were there?

7 A. Yes.

8 Q. And do you know how many people were there in this  
9 particular instance that you described for the jury last  
10 Friday? Are we talking dozens? Hundreds?

11 A. I wouldn't say -- I don't really remember exactly. It was  
12 a lot of people, though.

13 Q. Fifty, sixty?

14 A. It's a big party.

15 Q. I'm sorry?

16 A. Probably over 100.

17 Q. Over 100?

18 A. Yeah.

19 Q. And in the over 100 people, you told the jury last Friday  
20 that there were drugs present, right?

21 A. Correct.

22 Q. That's not uncommon in itself, right?

23 A. Yes.

24 Q. So people would come to these parties to drink alcohol,  
25 right?

1 A. Yes.

2 Q. To use drugs?

3 A. Yes.

4 Q. Correct?

5 And they would use cocaine, if it was available,  
6 correct?

7 A. Correct.

8 Q. They would use meth, if it was available, correct?

9 A. Correct.

10 Q. Or marijuana, if it was available, correct?

11 A. Yes.

12 Q. Okay. And that's how they got high and had a good time,  
13 basically, right?

14 A. Yes.

15 Q. And, and that's something that you participated in, right?

16 A. Yes.

17 Q. And your drug of choice was cocaine?

18 A. Yes.

19 Q. Was it marijuana, as well?

20 A. No.

21 Q. So Mr. Peters, you did not engage in the use of meth, did  
22 you?

23 A. No, I didn't.

24 Q. You didn't buy meth?

25 A. No.

1 Q. Didn't sell meth?

2 A. No.

3 Q. All right. But you were a big-time cocaine dealer, weren't  
4 you?

5 A. Yes.

6 Q. And starting back in 1999, all the way through 2007, you  
7 dealt cocaine, didn't you?

8 A. Yes.

9 Q. So we're talking, what, about eight years at least of  
10 cocaine dealing?

11 A. Yes.

12 Q. And did you deal in large quantities?

13 A. Yes.

14 Q. So are we talking more than 2 kilos?

15 A. At a time, no.

16 Q. If we're talking total, are we talking more than 2 keys?

17 A. Yes. More than two keys, yes.

18 Q. Are we talking more than 3 or 3.5 kilos?

19 A. In an eight-year span? Yes.

20 Q. Yes.

21 A. Yes.

22 Q. I'm sorry. That's exactly what I'm asking you.

23 In an eight-year span, did you deal in more than 3.5  
24 kilos of cocaine?

25 A. Yes.

1 Q. And your answer is yes, correct?

2 A. Yes. Correct.

3 Q. Did you deal in more than 10 kilos?

4 A. I wouldn't say that much, but it was a lot.

5 Q. How about 100?

6 A. No.

7 Q. Maybe 50?

8 A. No.

9 Q. And your best guess is how many kilos of cocaine did you  
10 deal in between 1999 and 2007, best, best guess?

11 A. Maybe about 30.

12 Q. About 30 kilos?

13 A. Yes.

14 Q. Directly that you dealt with, correct?

15 A. Yeah. That's a rough estimate. That's about right.

16 Q. Yeah. And beyond the 30 kilos, did you also help other  
17 people deal in kilos, too, where you were aiding and abetting?

18 A. Yes.

19 Q. So if we add the aiding and abetting kilos, how many total  
20 were you involved in, would you say? Does that get us up to 50  
21 or 75?

22 A. Maybe about 50, if that.

23 Q. About 50?

24 A. Yeah.

25 Q. So you could be held personally responsible for about 50

1      kilos of cocaine between 1999 and 2007; is that correct?

2      A. Yes.

3      Q. And when you were dealing your cocaine between 1999 and  
4      2007, Mr. Peters, was that your source of income?

5      A. That and driving truck.

6      Q. Okay. So you had two sources. One was legit, and one was  
7      illegit, correct?

8      A. Yes.

9      Q. But the primary source of your income was your cocaine  
10     dealing, right?

11     A. Yes.

12     Q. And that's how you supported yourself and your family at  
13     that time, right?

14     A. Correct.

15     Q. And when you were dealing cocaine, you were an independent  
16     drug dealer, right?

17     A. Correct.

18     Q. I mean, when you sold, even though you were a member of the  
19     Highwaymen, you would sell cocaine and take the money for  
20     yourself, right?

21     A. Correct.

22     Q. And you would keep it for yourself, right?

23     A. Yes.

24     Q. And you weren't taxed by the club, were you?

25     A. Just club dues.

1 Q. Okay. No kickbacks, though?

2 A. No.

3 Q. Right? Right?

4 A. No.

5 Q. No kickbacks.

6 So you kept that money essentially for yourself,  
7 right?

8 A. Yes.

9 Q. Other than the dues that you paid to the club, right?

10 A. Yes.

11 Q. Now, Ms. Stout asked you whether or not being a member of  
12 the club -- Ms. Stout is the defense lawyer who asked you  
13 questions just before me -- she asked you if being a member of  
14 the Highwaymen was a crime in itself. And you said no, right?

15 A. Correct.

16 Q. Because the club itself was not illegal, right?

17 A. Correct.

18 Q. Being a member of the club was not illegal, right?

19 A. Correct.

20 Q. So in the Highwaymen, some individuals would commit  
21 individual crimes, like you, right?

22 A. Yes.

23 Q. And sometimes, members of the Highwaymen would join for  
24 other purposes, like social value, being involved in charity  
25 runs, things of that sort, correct?

1 A. Yes.

2 Q. And in fact, in the Highwaymen, there were police officers  
3 who joined the Highwaymen, correct?

4 A. Yes.

5 Q. More than one, right?

6 A. Yes.

7 Q. Okay. Now, Mr. Peters, I want to talk to you about an  
8 incident that you testified to Friday involving the Jokers  
9 Motorcycle Club. Do you remember testifying about that on  
10 Friday?

11 A. Yes.

12 Q. And that was an incident at a bar, correct?

13 A. Correct.

14 Q. And you were there, right?

15 A. Yes.

16 Q. And there were certain members of the Highwaymen that were  
17 there?

18 A. Yes.

19 Q. And certain members of the Devils Disciples who were there?

20 A. Yes.

21 Q. But Scotty Z was not there, right?

22 A. Correct.

23 Q. He was not there? All right.

24 And when you went inside the bar, it was your intent  
25 to speak to the president of the Jokers Motorcycle Club; is

1 ||| that correct?

2 A. No. I wasn't -- that was at the clubhouse we speak to the  
3 president of the Jokers.

4 Q. I'm sorry. At a clubhouse --

5 A. Yes.

6 Q. -- you spoke to the president of the Jokers club?

7 A. Yes.

8 Q. What clubhouse was that?

9 A. The Jokers' clubhouse.

10 Q. And where was that?

11 A. That's in Brightmoor.

12 Q. Okay. So nearby?

13 A. Yes.

14 Q. And the reason for the meeting is that you wanted to, in  
15 effect, iron out a dispute, right?

16 A. Correct.

17 Q. And at the time that you spoke with the Jokers' bar --  
18 excuse me, Jokers Motorcycle Club president, you were initially  
19 able to resolve the problem, right?

20 A. Yes.

21 Q. That cooled things down, right?

22 A. Yes.

23 Q. And then after that meeting, you and other members go to  
24 the bar, right?

25 A. Yes.

1 Q. And at the bar, a fight broke out, right?

2 A. Correct.

3 Q. And that was not unusual in the biker world, that in a bar,  
4 with members of the different clubs, that a fight would break  
5 out, pretty not that uncommon, right?

6 A. Yes.

7 Q. And were you involved in the fight?

8 A. Yes.

9 Q. And before you got involved in the fight, had you sort of  
10 fueled yourself with alcohol?

11 A. Yes. I was, yes, I was drunk.

12 Q. You were drunk?

13 A. Yeah.

14 Q. And had you also taken some cocaine?

15 A. Yes.

16 Q. And you used that to sort of get yourself up for this bar  
17 fight, right?

18 A. I wouldn't say that. I was using it all day.

19 Q. Okay. So I mean, this was a regular thing that you did,  
20 alcohol, cocaine, back in the days, right?

21 A. Yeah.

22 Q. And you were an addict at the time, right?

23 A. Yes.

24 Q. And because you were using so much cocaine and so much  
25 alcohol, some of your memory is fuzzy about the dates and times

1 and what happened, right?

2 A. Maybe a little bit.

3 Q. A little bit.

4 Part of this bar fight stuff is really just an ego  
5 thing among members, right?

6 A. Yes.

7 Q. I mean, some of it is like you trying to prove that you can  
8 handle yourself in a bar, right?

9 A. Yes.

10 Q. And so you're involved in the fight. Other people are  
11 involved in the fight. And the way that the fight ends is you  
12 take out a pistol?

13 A. Yes.

14 Q. Fire it up into the ceiling?

15 A. Yes.

16 Q. Several times?

17 A. Twice.

18 Q. Twice. Everybody runs?

19 A. Correct.

20 Q. Okay. And that's the end of the fight?

21 A. Yes.

22 Q. Okay. Pretty common. Not that unusual, right?

23 A. Yes.

24 Q. Do you remember when that happened, what year?

25 A. No, not exactly what year.

1 Q. Okay. So now, let's fast forward to May of 2009.

2 A. Okay.

3 Q. You find yourself in big trouble, don't you, Mr. Peters?

4 A. Yes.

5 Q. You have big trouble with the Federal Government, right?

6 A. Yes.

7 Q. And you are indicted on serious charges, are you not?

8 A. Correct.

9 Q. And back on Friday, you described to some extent what those  
10 charges were, right?

11 A. Yes.

12 Q. Do you remember that? They were RICO charges?

13 A. Yes.

14 Q. Correct? They were both RICO substantive charges? Do you  
15 know what I mean by that?

16 A. No, I don't.

17 Q. Okay. When I say "substantive," I mean that you and other  
18 members of the Highwaymen actually committed certain crimes.

19 Do you understand that?

20 A. Yeah. I understand that.

21 Q. Okay. And then you were also charged with a RICO  
22 conspiracy; is that right?

23 A. Correct.

24 Q. And that means that you agreed with other members of the  
25 Highwaymen to commit certain serious crimes; is that correct?

1 A. Correct.

2 Q. And you said that on Friday, these were so serious that you  
3 faced the rest of your life in prison, correct?

4 A. Correct.

5 Q. So in May of 2009, do you remember coming to court to be  
6 arraigned on the charges?

7 A. Yes.

8 Q. Okay. And when I say "arraigned," that's when the judge or  
9 the magistrate tells you that you're being charged with certain  
10 crimes and what those penalties are, right?

11 A. Yes.

12 Q. And you signed a piece of paper saying I know that I could  
13 spend the rest of my life in prison, right?

14 A. Yes.

15 Q. And you're thinking about this, and you say to yourself, I  
16 need to figure out a way to save myself, right?

17 A. Yeah.

18 Q. All right. Because you're young, right?

19 A. Yes.

20 Q. Got a family, right?

21 A. Yes.

22 Q. And you don't want to spend the rest of your life in  
23 prison, right?

24 A. Correct.

25 Q. And you basically say to yourself, the hell with these

1 other guys, I'm going to throw them under the bus, whatever I  
2 need to do, to save myself, right?

3 A. In a way, yes.

4 Q. I mean, that's essentially what happened, right?

5 A. Yes.

6 Q. So your plan was you would help yourself with the  
7 expectation that the Government, the lawyers, would  
8 eventually -- not these lawyers here -- but they would  
9 eventually help you out. That was the idea, right?

10 A. I was hoping, yes.

11 Q. That's what you were hoping for, right?

12 A. Yes.

13 Q. Okay. And in fact, the plan you devised to save yourself,  
14 in fact, eventually worked, didn't it?

15 A. With my lawyer's help, yes.

16 Q. Okay. So your lawyer was actually the go-between, between  
17 you and the Government lawyers, that helped you work out your  
18 plan?

19 A. Yes.

20 Q. And the plan being if you gave the Government information  
21 that they wanted, in the end you would get what you wanted,  
22 which is to save your life, right?

23 A. Correct.

24 Q. So in May of 2009 when you appeared and you were charged  
25 with these serious drug, excuse me, serious crimes for which

1      you could spend the rest of your life, one of your concerns was  
2      to get out immediately out on bond, right?

3      A. Yes.

4      Q. And the Government agreed that you could get out then,  
5      right?

6      A. Yes.

7      Q. And so working for the Government allowed you to get out,  
8      get your freedom, right?

9      A. Yes.

10     Q. When you got out, and the Government agreed to let you out,  
11     you had a problem in terms of creating income for yourself,  
12     didn't you?

13     A. Yes.

14     Q. Because you couldn't go back to dealing drugs, could you?

15     A. No.

16     Q. So what you decided to do, with the help of the Government,  
17     was to work for the Government, right?

18     A. Correct.

19     Q. And they would pay you, they would pay you for your work,  
20     right?

21     A. Yes.

22     Q. So you wore a recorder?

23     A. Yes.

24     Q. And in exchange for wearing a recorder and speaking with  
25     other people, they paid you money, right?

1 A. Correct.

2 Q. \$2,500 a month?

3 A. I believe it was two grand a month.

4 Q. Two grand?

5 A. Yep.

6 Q. You're not certain about that, but --

7 A. I believe it was two grand.

8 Q. You wouldn't dispute the fact if I told you that previously  
9 you testified that you received 2,500? You wouldn't dispute  
10 that, right?

11 A. No, I wouldn't.

12 Q. Okay. So it's either 2,000 or 2,500, right?

13 A. Yes.

14 Q. But in any event, what it did is it allowed you to get  
15 money, income, to support yourself and your family while this  
16 charge was going on, right?

17 A. Correct.

18 Q. And so what you did is you wore a recorder, correct?

19 A. Yes.

20 Q. You went back in to the club world, correct?

21 A. Yes.

22 Q. And you pretended to be somebody who was their friend, that  
23 is, you're just an everyday guy who is out there being a club  
24 member, right?

25 A. Yes.

1 Q. When, in fact, you were working for the Government, right?

2 A. Correct.

3 Q. So you were fooling those people, fooling all those people  
4 that you were dealing with, right?

5 A. Correct.

6 Q. And in exchange for that, you got paid cash?

7 A. Correct.

8 Q. Or was it a check?

9 A. Cash.

10 Q. Cash. All right. And you did that for five months, didn't  
11 you?

12 A. Yes, I believe.

13 Q. So that's a long time for you to pretend about being a  
14 certain thing, certain person, right?

15 A. Yes.

16 Q. Five months?

17 And you got pretty good at it, right?

18 A. I wouldn't say that, but yeah.

19 Q. Well, I mean, you'd wear a wire, you'd go talk to other  
20 people, pretend, fool people about who you are and what you  
21 were up to, right?

22 A. I never asked nobody about their crimes. I wasn't allowed  
23 to.

24 Q. You weren't allowed to ask them about the crimes?

25 A. No.

1    Q. But you were trying to fool them about who you were,  
2    weren't you?

3    A. You could, yeah, you could say that.

4    Q. Yeah. I mean, you knew that, right?

5    A. Yeah, I knew that.

6    Q. You were, you were pretending, right?

7    A. Yup.

8    Q. Okay. And the Government paid you that over, you said,  
9    about five months; is that correct?

10   A. Yes.

11   Q. And so you were getting taxpayer money in cash, to help the  
12   Government, right?

13   A. Yes.

14   Q. And did you file income tax returns in that year?

15   A. No.

16   Q. Now, you probably never filed income tax returns in your  
17   whole life, have you?

18   A. Yes, I have.

19   Q. Way back when you had your legitimate job?

20   A. Yes. My trucks.

21   Q. I'm sorry?

22   A. With my truck company, I did.

23   Q. And what year was that?

24   A. '98 -- '97 was the last year.

25   Q. So 1997 was the last time you filed income tax returns,

1 right?

2 A. Yeah.

3 Q. So in 2009, while you were working for the Government, you  
4 got taxpayers' money, in cash, to work for the Government that  
5 you never declared as income, right?

6 A. Correct.

7 Q. You ended up getting about \$10,000 in cash for your work,  
8 correct?

9 A. That was to leave.

10 Q. I'm sorry?

11 A. That was to leave.

12 Q. Well, you got two separate amounts?

13 A. Yes.

14 Q. One was -- I'm sorry?

15 A. No. Go ahead.

16 Q. Okay. You got about 2,000 or \$2,500 a month for working  
17 for the Government. That was one set of money you got, right?

18 A. Correct.

19 Q. And then you got another \$10,750 to relocate. That was  
20 separate, wasn't it?

21 A. Yes.

22 Q. Okay. So you received a total amount of \$20,750 of taxed  
23 -- taxpayers' money, right?

24 A. Yes.

25 Q. And the reason why you relocated, you said last Friday, was

1      not because you were afraid, right?

2      A.    Correct.

3      Q.    But other people were concerned for your safety, right?

4      A.    Correct.

5      Q.    Okay. Now, as part of your "cooperation," as the  
6      Government likes to say, you were to tell on not only members  
7      of the Highwaymen, but also members of the Devils Diciples; is  
8      that correct?

9      A.    Well, yes.

10     Q.    Yeah. I mean, didn't you talk to the Macomb County  
11     prosecutors about your involvement with the Devils Diciples?

12     A.    Yes.

13     Q.    Yeah. Right. And you talked to the FBI out in Port Huron  
14     about your involvement with the Devils Diciples?

15     A.    Port Huron?

16     Q.    Port -- well, whatever. Mount Clemens, wherever those  
17     folks hang out?

18     A.    I talked to them one time about them. That was it.

19     Q.    You're saying here under oath that you only spoke to the  
20     FBI once about your involvement with the Devils Diciples  
21     Motorcycle Club? Is that what you're saying here under oath?

22     A.    Back then, I did only talk to them one time about the  
23     Devils Diciples.

24     Q.    How many times altogether?

25     A.    Now it's been like twice.

1 Q. Two times total; is that what you're saying here?

2 A. Correct.

3 Q. Okay. Mr. Peters, to go back for a moment to -- about  
4 motorcycle culture, was it common for you, in your experience  
5 in the club, in dealing with other clubs, that members often  
6 talked, and I'll use this in quotes, "talked bullshit"?

7 A. Correct.

8 Q. And they would often exaggerate about what they had done  
9 and what they hadn't done?

10 A. Yes.

11 Q. And would club members lie to each other about what was  
12 going on?

13 A. Yes.

14 Q. And did club members lie on you?

15 A. Yes.

16 Q. And did you lie on other club members?

17 A. I never lied on a club member.

18 Q. Never?

19 A. Never.

20 Q. Have you ever lied to the FBI?

21 A. No.

22 Q. Are you sure about that?

23 A. Yes.

24 Q. Isn't it true that when the FBI first came to you back in  
25 2006, at your house, they asked you about what position you

1 held with the club?

2 A. Yes.

3 Q. Yes. And you told them that the only position that you  
4 ever held was sergeant of arms?

5 A. Correct.

6 Q. And that was a lie?

7 A. Yes.

8 Q. And you knew it was a lie at the time?

9 A. Yes.

10 Q. And the reason why you lied and didn't tell them that you  
11 were national president, vice president, and boss, is because  
12 you were trying to benefit yourself, right?

13 A. Yes.

14 Q. Right. And you thought that if you lied to the FBI, that  
15 that would help you out, right?

16 A. I don't know if it helped me out, but I did lie to them.

17 Q. Well, that's what you were thinking at the time. I mean,  
18 you intentionally lied to the FBI, didn't you?

19 A. Yes.

20 Q. It wasn't a mistake, was it?

21 A. No.

22 Q. And the reason why you intentionally lied is you thought it  
23 would help you out?

24 A. At that time, yes.

25 Q. Right. You thought it would keep you out of trouble, you

1      might not be charged, or that if the FBI thought that you only  
2      held a small position, you might not be charged, right?

3      A.    Correct.

4      Q.    So you do know how to lie?

5      A.    Yes. I know how to lie.

6      Q.    You know how to lie to the FBI, right?

7      A.    Yes.

8      Q.    And when you lied to the FBI, you found out later that that  
9      was a crime, didn't you?

10     A.    Yes.

11     Q.    And were you charged with lying to the FBI?

12     A.    No.

13     Q.    So even though the Government knows that you lied to them,  
14      they give you a free pass, don't they?

15     A.    Yeah. I think so, yeah.

16     Q.    Yeah. Right.

17               So not only are you a convicted felon, you are an  
18      admitted liar, right?

19     A.    Yes.

20     Q.    Now, you told the jury back on Friday that you were charged  
21      with a certain RICO charge with regards to the Highwaymen,  
22      correct?

23     A.    Yes.

24     Q.    And there were a number of people charged as Highwaymen,  
25      correct?

1 A. Correct.

2 Q. And you said that Scotty Z, at some point, became a  
3 Highwaymen, correct?

4 A. Correct.

5 Q. And you know that Scotty Z was not charged in the RICO  
6 conspiracy involving the Highwaymen; isn't that correct?

7 A. Correct.

8 Q. He was not charged?

9 A. Correct.

10 Q. So when you testified subsequently against the Highwaymen,  
11 at that point in time, the Government had made no promises to  
12 you, correct?

13 A. Correct.

14 Q. And you had not pled guilty, right?

15 A. Right.

16 Q. And so in front of the jury for the Highwaymen case, you  
17 got on the witness stand and said the Government didn't promise  
18 you anything, right?

19 A. Correct.

20 Q. And that was true at the time, right?

21 A. Yes.

22 Q. But then after you testified, then the Government came and  
23 offered you a deal, right?

24 A. Yes.

25 Q. So the Government did come to your help, did come to your

1 assistance after you testified; isn't that right?

2 A. Yes.

3 Q. And what they did is they entered into what is called a  
4 Rule 11 plea agreement; isn't that right?

5 A. Correct.

6 Q. And the Rule 11 plea agreement was important to you, was it  
7 not?

8 A. Yes.

9 Q. Because the Rule 11 plea agreement allowed you, in effect,  
10 or the Government to agree to lopping off from a life sentence,  
11 all the way down to a guideline range of initially 108 to 135  
12 months; is that correct?

13 A. Yes.

14 Q. Okay. And that was significant and important for you,  
15 right?

16 A. Yes.

17 Q. And not only did they agree to reduce your guidelines down,  
18 but they agreed to dismiss certain charges, too, right?

19 A. Correct.

20 Q. And that was --

21 MR. MAIATICO: Your Honor, objection. This has been  
22 asked and answered on Friday.

23 THE COURT: You can recap briefly.

24 MR. DALY: Thank you.

25 THE COURT: Briefly.

1                   MR. DALY: Thank you.

2 BY MR. DALY:

3 Q. And the way that they came up with the guidelines, in part,  
4 had to do with the amount of cocaine that you supposedly were  
5 dealing with, correct?

6 A. Yes.

7 Q. And do you remember last Friday when Ms. Stout was asking  
8 you questions that the Government and you and your lawyer  
9 agreed to tell the judge that the total amount of cocaine was  
10 between 2 and 3 and a half kilograms of cocaine, right?

11 A. Correct.

12 Q. And you already told the jury that you could have been held  
13 responsible for up to 50 kilos of cocaine, right?

14 A. Yes.

15 Q. So this agreement was a fiction; it was a fiction  
16 perpetrated on the court, wasn't it?

17 A. I don't even know how to answer that.

18 Q. Why not? Because you knew that you had been dealing in 50  
19 kilos of cocaine, and yet, you allowed the Government and your  
20 lawyer to stand in front of the judge and misrepresent how  
21 many -- how much drugs you were involved in.

22 A. Correct.

23 Q. You agreed to that.

24 A. Yes.

25 Q. But there was more to the deal than that, wasn't there?

1 Because in exchange for your testimony and your cooperation,  
2 the Government said that they would make a recommendation that  
3 you get no more than 48 to 54 months, right?

4 A. Yes.

5 Q. So you go all the way from a life sentence down to four  
6 years, and what, four months, right?

7 A. Yes.

8 Q. Not a bad deal.

9 A. No.

10 Q. So then you show up on sentencing, right?

11 A. Correct.

12 Q. Didn't the Government recommend less than 48 to 54 months?

13 A. Five years.

14 Q. Well, wait a minute. They recommended 48 to 54 months in  
15 the agreement, right?

16 A. Yes.

17 Q. And the Government was, as far as you were concerned, that  
18 they were bound by that agreement?

19 A. Yes.

20 Q. Are you saying that the Government reneged and came in and  
21 asked for more?

22 A. No. The judge gave me my sentence.

23 Q. Right. My question to you, Mr. Peters, was didn't the  
24 Government come in on the day of sentencing and recommend less  
25 than 48 to 54 months?

1 A. Not that I recollect.

2 Q. Okay. You just don't remember?

3 A. I just don't remember.

4 Q. In any event, the judge gave you less.

5 A. Correct.

6 Q. Twenty-four months.

7 A. And three years' supervised release.

8 Q. Twenty-four months in prison.

9 A. Yes.

10 Q. Two years, right?

11 A. Yes.

12 Q. All the way from life, down to two years.

13 A. Yes.

14 Q. So last Friday when you were in court under oath and Mr.  
15 Maiatico asked you did they, meaning the prosecutors, provide  
16 you with any benefits in exchange for your testimony, and you  
17 answered no, that's not true, is it?

18 A. They was all -- all mine was up to the judge.

19 Q. All of it was up to the judge. You just told the jury that  
20 you cut a deal with the Government to get less than life. It  
21 wasn't all up to the judge, was it?

22 A. Yes. But my sentencing was.

23 Q. Yeah. Ultimately, the sentencing was. But the Government  
24 came in on the day of sentencing and went to bat for you,  
25 right?

1      A. Yes.

2      Q. So the Government did provide you for benefits in exchange  
3      for your testimony, didn't they?

4      A. Yes.

5      Q. So when you answered "no" under oath in front of this jury  
6      Friday, that was not true, was it?

7      A. Correct.

8                  MR. MAIATICO: Objection, your Honor.

9                  MR. DALY: Wait. Hold on. Can we get the answer  
10        first?

11                 MR. MAIATICO: Your Honor?

12                 THE COURT: No. Actually, the procedure is to get the  
13        objection first.

14                 MR. DALY: I'm sorry.

15                 MR. MAIATICO: Your Honor, we object. He's  
16        mischaracterizing the witness's testimony from Friday.

17                 THE COURT: I will allow that to, to be subject to  
18        cross-examination, Mr. Maiatico.

19                 MR. DALY: Since the Government has said that I have  
20        mischaracterized the testimony -- one minute.

21                 (Brief pause.)

22                 MR. DALY: Judge, I'm going to read from the  
23        transcript, the certified transcript of October 17th, before  
24        this Court, Volume III.

25        BY MR. DALY:

1 Q. This is page 150, lines 18 through 20.

2 Question by Mr. Maiatico:

3 "Question: Did they provide you with any benefits in  
4 exchange for your testimony?"

5 You answered: "No."

6 Is that correct?

7 A. Correct.

8 Q. And that wasn't true, was it? Because they did provide you  
9 with benefits, right?

10 A. Correct.

11 Q. Okay. So what you're telling the jury is that back on  
12 Friday, when Mr. Maiatico asked you that question, in effect,  
13 you lied or misled the jury, right?

14 A. Right.

15 Q. All right. Now, the other thing that you said when Mr.  
16 Maiatico asked you were you getting anything in exchange for  
17 your testimony here, and why were you here, you said because  
18 I'm doing the right thing. I'm sort of paraphrasing. Correct?

19 A. Correct.

20 Q. Now, that's exactly what you said when you testified before  
21 the Highwaymen case, right?

22 A. Correct.

23 Q. Okay. So here is the plan: You come in. You tell the  
24 jury that you are doing the right thing. You're not going to  
25 get a benefit when, in fact, you expect that because you

1 testified here, that the Government will come back and ask the  
2 judge to reduce your sentence one more time, right?

3 A. No.

4 || Q. That's not what you expect?

5 A. No.

6 || Q. You know that's a possibility?

7 A. It's a possibility, yes. But no, I don't expect it.

8 Q. Okay. That's a good place to stop then.

9 MR. DALY: Thank you.

10 THE COURT: Any others?

11 MS. MACERONI: I do.

12 | CROSS-EXAMINATION

13 BY MS. MACERONI:

14 Q. Good morning, Mr. Peters.

15 A. Good morning.

16 Q. I just have a couple of questions to ask you about the  
17 black and blue party that you spoke a little bit about on  
18 Friday.

19 A. Yes.

20 Q. And that was a joint party between the Devil's Disciples  
21 Motorcycle Club and the Highwaymen's club, correct?

22 A. Correct.

23 Q. And I believe you testified that that occurred in about  
24 2001?

25 A. Something like that, yes.

1 Q. Okay. And you test -- or you talked a little bit with Mr.  
2 Daly about the September -- September 2014 interview that you  
3 gave with the FBI. Do you recall an interview that you gave in  
4 May of 2011?

5 A. I think so, yes.

6 Q. Okay. And do you recall talking about the black and blue  
7 party during that interview with the FBI?

8 A. Yes.

9 Q. Okay. And do you recall also that Ms. Mohsin and Mr.  
10 Straus were present during that interview --

11 A. Yes.

12 Q. -- correct? All right.

13 And you indicated at the time that a leader of the  
14 Highwaymen club was an individual by the name of Mad Anthony,  
15 correct?

16 A. Correct.

17 Q. And that's true as you sit here today?

18 A. Yes.

19 Q. And Mad Anthony, his real name is Anthony Clark, correct?

20 A. Yes.

21 Q. And at the time, the DDMC was led by an individual by the  
22 name of Bearfoot, correct?

23 A. Yes.

24 Q. And do you recall Bearfoot's legal name?

25 A. No, I don't.

1    Q. Bearfoot was the leader of the DDMC in Mount Clemens,  
2    correct? At that chapter house?

3    A. Right. Yes.

4    Q. Now, do you recall also during this May 2011 interview  
5    identifying several photographs of different DDMC members?

6    A. Yes.

7    Q. And do you recall identifying an individual by the name of  
8    Roach?

9    A. Yes.

10   Q. And do you recall identifying an individual by the name of  
11   Chico?

12   A. I believe so, yes.

13   Q. Spike?

14   A. Yes.

15   Q. Utica Mike?

16   A. Yes.

17   Q. And do you recall identifying an individual by the name of  
18   JP?

19   A. Yes. Probably, yes.

20   Q. Do you recall a specific incident that you talked to Ms.  
21   Mohsin and Mr. Straus about concerning JP?

22   A. I'd have to be recollected. I don't remember.

23   Q. If I showed you a copy of the report, would --

24   A. Yes.

25   Q. -- that refresh your recollection?

1 MS. MACERONI: Judge, may I approach?

2 THE COURT: Yes.

3 THE WITNESS: Yes.

4 BY MS. MACERONI:

5 Q. Do you recall talking to the AUSA's about JP? And  
6 specifically, what is it you told them about JP?

7 A. JP had -- kind of was hitting on one of our member's old  
8 ladies. So John Creek, which was a member of the Highwaymen,  
9 took it up with their boss, the Devils Diciples. And they,  
10 they took care of it in the basement at their clubhouse.

11 Q. Okay. So let me go through that a little bit.

12 So the individual that you knew as JP, who was a  
13 Devils Diciples Motorcycle Club member, correct?

14 A. Correct.

15 Q. Okay. And he was acting inappropriately with a  
16 Highwaymen's?

17 A. Wife.

18 Q. Wife.

19 A. Yes.

20 Q. And the Highwaymen's name was by the name of John Creek?

21 A. Yeah.

22 Q. Okay. So Bearfoot, who was the leader of the DDMC at the  
23 time? Correct?

24 A. Yes.

25 Q. Okay. Had told Mad Anthony that he would take care of it?

1 A. Yes.

2 Q. And to your knowledge, was that ever done?

3 A. Yes. Because John Creek was in present when that would  
4 happened.

5 Q. Again, did that take care of the bad blood between, or the  
6 potential bad blood between the two clubs?

7 A. Yes.

8 Q. Were you present when this occurred with JP?

9 A. No.

10 Q. Thank you. I don't --

11 A. The first incident I was, though.

12 Q. I'm sorry?

13 A. The first incident.

14 Q. So when JP was hitting on --

15 A. Yes.

16 Q. -- John Creek's wife, you saw that?

17 A. Yes.

18 Q. And was there a fight that broke out at that time?

19 A. No.

20 Q. All right. It was taken care of later?

21 A. Yeah.

22 MS. MACERONI: Thank you. I have nothing else.

23 THE COURT: Others? Mr. Satawa?

24 CROSS-EXAMINATION

25 BY MR. SATAWA:

1 Q. Good morning, Mr. Peters.

2 A. Good morning.

3 Q. Mr. Peters, I am going to remind you of the questions and  
4 answers you've been asked already on cross-examination so as to  
5 save ourselves some time in me having to go over ground that's  
6 already been covered.

7 A. Okay.

8 Q. Fair enough?

9 A. Yes.

10 Q. If, however, in the course of my questioning you think that  
11 there's something we need to discuss or you would like a  
12 question repeated, just let me know and we'll go down that  
13 road. All right?

14 A. All right.

15 Q. Mr. Peters, I'm a little bit confused about one aspect  
16 about your Rule 11 plea agreement and your cooperation  
17 agreement with the Government. And that's what I'm going to  
18 focus on. I want you to focus your attention on that. All  
19 right?

20 A. (No response.)

21 Q. All right?

22 A. Yes.

23 Q. You've got to answer verbally.

24 A. Okay.

25 Q. Because she's taking everything down that we say. Okay?

1           Mr. Peters, you testified on Friday that, and you were  
2 very clear, that you entered into a cooperation agreement in  
3 the Highwaymen case, right?

4 A. Yes.

5 Q. Which is a case in front of a different judge?

6 A. Yes.

7 Q. In the same building, but a different judge?

8 A. Yes.

9 Q. And you even asked, were asked questions, I think, by the  
10 Government on Friday that it was different prosecutors.

11 A. Yes.

12 Q. Different agent.

13 A. Yes.

14 Q. Different everybody.

15 A. Yes.

16 Q. And your testimony went something to the effect of you  
17 entered into a cooperation agreement that affected your  
18 sentence, something that's been amply covered by Mr. Daly  
19 today, as it related to your involvement in the Highwaymen  
20 case. Do you remember that testimony to the Government on  
21 Friday?

22 A. Yes.

23 Q. All right. I was reviewing your Rule 11 plea agreement  
24 over the weekend. Do you remember the terms and what is in  
25 this agreement?

1 A. Not everything in there.

2 Q. All right. Do you remember entering into this agreement?

3 A. Yes.

4 Q. And you entered into this agreement with the help of a  
5 lawyer?

6 A. Yes.

7 Q. You were given a lawyer in the Highwaymen case?

8 A. Yes.

9 Q. And that lawyer and you discussed your legal options from  
10 the day you were arrested in 2009?

11 A. Correct.

12 Q. You relatively quickly, after your arrest in 2009, agreed  
13 to cooperate with the Government?

14 A. Correct.

15 Q. And that is a decision that you made?

16 A. Yes.

17 Q. And you made that decision with the help and legal advice  
18 of an attorney?

19 A. Yes.

20 Q. A very good attorney?

21 A. Yes.

22 Q. He must be a darn good attorney, because as we've  
23 discussed, you've gone from life down to two years.

24 A. Yes.

25 Q. You're satisfied with what he told you?

1 A. Yes. All he told me was not to lie.

2 Q. Okay. Well, he also told you that -- ultimately, you  
3 discussed this agreement with him?

4 A. Yes.

5 Q. And he told you, based on this agreement, not to lie.

6 A. Yes.

7 Q. Mr. Daly and others have already discussed the fact that  
8 apparently you decided not to follow his advice, because we  
9 know you lied to this jury at least on a couple of points over  
10 the last few days, right?

11 A. Yes.

12 Q. Okay. This cooperation agreement, or excuse me, the Rule  
13 11 plea agreement, to be accurate, contains a section about  
14 your cooperation, right?

15 A. Right.

16 Q. That cooperation or that section on your cooperation starts  
17 on page 6, and it's listed as section 4. Do you remember this?

18 A. Yes.

19 Q. Do you remember what this cooperation agreement requires  
20 you to do?

21 A. Tell the truth.

22 Q. All right. What else does it require you to do?

23 A. Testify.

24 Q. Testify whenever the Government wants you to?

25 A. Yes.

1 Q. That obligation is not limited?

2 A. Yes.

3 Q. It is not limited to the Highwaymen case?

4 A. Correct.

5 Q. That obligation, you understand, continues to this case?

6 A. Yes.

7 Q. It is your obligation to come in here today or on Friday  
8 and answer questions for this jury?

9 A. Yes.

10 Q. If the government asks you to testify, if the government  
11 asks you to come into court, it is your obligation to come into  
12 court and testify?

13 A. Yes.

14 Q. And if you do not testify when the Government asks you to  
15 do so, you are in violation of this agreement?

16 A. Correct.

17 Q. This agreement, in essence, covers your testimony here,  
18 Friday, and today?

19 A. Yes.

20 Q. In other words, if the Government says jump, your  
21 obligation is to say how high?

22 A. Yes.

23 MR. SATAWA: No further questions.

24 THE COURT: Others?

25 All right. It's 10:30. I think about a 15-minute

1      recess is appropriate at this point. We're going to recess for  
2      lunch just before one p.m. Fifteen minutes in the jury room,  
3      ladies and gentlemen. We stand in recess.

4                (Jury out, 10:28 a.m.)

5                COURT REPORTER: All rise. Court is in recess.

6                (Recess taken, 10:29 a.m. - 10:49 a.m.)

7                THE CLERK: All rise.

8                (Jury in, 10:50 a.m.)

9                THE COURT: All right. The jury has assembled. Be  
10     seated.

11               The parties are all present. Mr. Maiatico, do you  
12     have redirect examination, perhaps?

13               MR. MAIATICO: Yes, your Honor. Thank you.

14               REDIRECT EXAMINATION

15     BY MR. MAIATICO:

16     Q. Good morning, Mr. Peters.

17     A. Good morning.

18     Q. I understand you weren't feeling that well last Friday when  
19     you were testifying. Do you feel better today?

20     A. Correct. A little bit better today, yes.

21     Q. All right. Good to hear.

22     MS. STOUT: Objection.

23     MR. SATAWA: Is the Government testifying, Judge, or?

24     THE COURT: I beg your pardon?

25     MR. SATAWA: I said is the Government testifying, your

1 Honor?

2 THE COURT: Do you have an objection?

3 MR. SATAWA: I believe I do. The Government was  
4 testifying.

5 THE COURT: And would you state the basis for the  
6 objection?

7 MR. SATAWA: The objection from my -- the objection,  
8 the basis for my objection is that the Government is testifying  
9 and assuming a fact not in evidence and is leading.

10 THE COURT: Overruled.

11 MR. SATAWA: So I have three objections.

12 THE COURT: Overruled as to each.

13 MR. SATAWA: As to all three.

14 THE COURT: Overruled as to each. Proceed.

15 BY MR. MAIATICO:

16 Q. All right. Mr. Peters, you were asked on cross-examination  
17 about an incident with Scotty Z, correct?

18 A. Yes.

19 Q. And that was an incident where you had Scotty Z do you a  
20 favor, correct?

21 A. Yes.

22 Q. Now, can you describe to the jury what that favor was,  
23 again?

24 MR. DALY: Objection. Judge, I don't think we need to  
25 go back through this again. That's not the purpose of

1 redirect. I object.

2 THE COURT: Overruled. The matter was extensively  
3 gone into on your cross-examination. Proceed.

4 BY MR. MAIATICO:

5 Q. So what was that incident again?

6 A. To make my girlfriend's ex-boyfriend leave her alone.

7 Q. All right. So did the, once Scotty Z intervenes in this  
8 incident, did the ex-boyfriend leave your girlfriend alone?

9 A. Yes.

10 Q. All right. And what was it you provided Scotty Z in return  
11 for this favor?

12 A. A quarter ounce of cocaine.

13 Q. Okay. Now, you testified earlier that you've distributed  
14 cocaine in the past?

15 A. Yes.

16 Q. For many years? For many years, correct?

17 A. Yes.

18 Q. What sort of quantities of cocaine would you consider user  
19 quantities?

20 A. Eight-balls, 16ths.

21 Q. Okay. And that's the type of quantities, that you would  
22 sell to individuals, when you --

23 A. Yes.

24 Q. -- were a cocaine distributor?

25 A. Yes.

1     Q. How does that compare to the amount of cocaine that you  
2 supplied to Scotty Z?

3     A. To just a little bit more than usually what I'd give out.

4     Q. And why would you do that?

5     A. Because it was more money.

6     Q. And did you expect Scotty Z to do anything with that  
7 cocaine?

8     A. No.

9     Q. Did you expect him to distribute it to anyone?

10               MR. DALY: Objection.

11               THE WITNESS: No.

12               MR. DALY: He just said the answer was no, and the  
13 next question was leading. I object.

14               THE COURT: Overruled. Proceed.

15     BY MR. MAIATICO:

16     Q. So did you expect Scotty Z to distribute that cocaine to  
17 anyone else?

18     A. No.

19               MR. DALY: Thank you.

20     BY MR. MAIATICO:

21     Q. At the time of this incident with Scotty Z --

22               THE COURT: Stop. There is no need by anybody to  
23 thank the Court for any ruling made. I intend to rule  
24 consistent with Rules of Evidence, as I understand them. Let's  
25 not have any "thank you" or anything else similar to that for

1 either side of the table, for either side of the courtroom.

2 Proceed, sir.

3 BY MR. MAIATICO:

4 Q. So Mr. Peters, at the time of this incident with Scotty Z,  
5 was, was Scotty Z associating with members of the Devils  
6 Diciples at that time?

7 A. Yes.

8 Q. And you testified earlier that the Devils Diciples and the  
9 Highwaymen were friendly?

10 A. Yes.

11 Q. How would you describe that association?

12 A. Hung out together.

13 Q. All right. Now, why would Scotty Z help you out with this  
14 favor?

15 A. Just for -- just out of friendship.

16 Q. Did you trust Scotty Z?

17 A. Yes.

18 Q. Why did you trust him?

19 A. He's always been a man of his word.

20 Q. All right. What is Scotty Z's reputation?

21 MR. DALY: Objection. There's no foundation for that.

22 It's not relevant, both, Judge.

23 THE COURT: The foundation can be laid in the course  
24 of answering the question. I believe that it is relevant,  
25 particularly to, particularly to an aspect of cross-examination

1 by Mr. Daly. And you may proceed. The objection is overruled.

2 BY MR. MAIATICO:

3 Q. So, Mr. Peters, what is Scotty Z's reputation?

4 A. He's a man who does what he says he's going to do.

5 Q. All right. Have you ever observed Scotty Z carrying a ball  
6 bat?

7 MR. DALY: Objection. That's not relevant.

8 THE COURT: Again, I believe that it is. And I will  
9 make a note and amplify that at a later time. Overruled.

10 BY MR. MAIATICO:

11 Q. Mr. Peters, have you ever observed Scotty Z carrying a ball  
12 bat?

13 A. No, I haven't observed him carrying a ball bat before.

14 Q. Have you ever observed Scotty Z carrying a gun?

15 A. Yes.

16 Q. How many times have you observed Scotty Z carry a gun?

17 MR. DALY: Objection. Relevancy.

18 THE COURT: Overruled. Let me explain at the side of  
19 the bench.

20 Just take a standing stretch break for a moment,  
21 ladies and gentlemen.

22 (Side bar discussion held with Mr. Maiatico, Mr. Pitts, Mr.  
23 Daly, Mr. Satawa, Mr. Sabbota, Mr. Kraizman, Mr. Machasic,  
24 outside the hearing of the jury at 10:55 a.m.)

25 THE COURT: Can you hear okay?

1           All right. Mr. Daly, good morning.

2           MR. DALY: Yes. Good morning.

3           THE COURT: The explanation is that in  
4 cross-examination, Mr. Daly particularly emphasized that Scotty  
5 Z was half the size; it would take two Scotty Z's standing one  
6 on top of the other to equal this guy, and thereby sought to  
7 substantially diminish the significance of his physical  
8 presence, et cetera, and to diminish the impression of his  
9 threatening demeanor or things relatively similar to that.  
10 This testimony is being brought out at least partly in response  
11 to that, and I think very reasonably so. It is relevant. The  
12 objection is overruled.

13           MR. DALY: May I respond?

14           THE COURT: You, you've already objected.

15           MR. DALY: I'm just asking if I can respond, that's  
16 all.

17           THE COURT: Briefly. Yes.

18           MR. DALY: Okay. The questions that I asked were  
19 directed specifically to a specific instance that the  
20 Government brought out, which is that this witness sought out  
21 Scotty Z for a specific purpose when this witness has a  
22 reputation, meaning Mr. Peters, of taking care of, I'm sorry,  
23 of taking care of business himself. This is all related to one  
24 specific instance. It doesn't open the door for the Government  
25 to ask any question about what he may have done ever in his

1 life regarding a baseball bat or a gun.

2 THE COURT: Oh, I agree with that. These questions,  
3 as I understand it, are, are directed, though, to that phase of  
4 the cross-examination. And on that assumption, and with that,  
5 in that, in that vein, the objection is overruled.

6 Let's go back.

7 MR. DALY: I disagree.

8 (Sidebar concluded, 10:57 a.m.)

9 THE COURT: Let's come back to order, please.

10 Continue, sir.

11 BY MR. MAIATICO:

12 Q. Mr. Peters, I believe the last question was: Have you ever  
13 seen Scotty Z carrying a gun?

14 A. Yes.

15 Q. And how many times have you seen him with a gun?

16 A. Every time I ever met Scotty Z, he had one.

17 Q. You always knew him to carry?

18 A. Yes.

19 Q. Have you ever known him to use a ball bat, even though you  
20 haven't seen him use a ball bat?

21 A. He's told me he has, but I never seen him use it.

22 Q. All right. Moving on, Mr. Peters, I want to clarify the  
23 timing of your plea agreement in the Highwaymen case.

24 Did you enter into that plea agreement before or after  
25 you testified at the trials in the Highwaymen?

1 A. Before.

2 Q. You entered into the agreement before you testified?

3 A. Yes.

4 Q. Were you told by prosecutors before you testified that you  
5 would receive a, receive a break?

6 A. I would receive a Rule 11. It would still be up to the  
7 judge --

8 Q. Okay.

9 A. -- on my sentencing.

10 Q. So at the time that you testified, you were told that you  
11 would receive a Rule 11 at some point in the future.

12 A. Yeah.

13 Q. Is that correct?

14 Now, at what point did you wear a wire against other  
15 members of the Highwaymen?

16 A. As soon as they let me out.

17 Q. All right. And that was --

18 A. The whole time.

19 Q. So that was after you were arrested, and you were let out  
20 on bond?

21 A. Yup, on bond, yes.

22 Q. And that happened before you were -- you testified in those  
23 trials, correct?

24 A. Correct.

25 Q. Now, how would you describe the danger involved in wearing

1      a wire against other members of the motorcycle club?

2      A. I probably would have been killed if I would have got  
3            caught.

4      Q. Did you receive any threats to your safety?

5      A. No.

6      Q. But members of law enforcement believed there was a threat  
7            to your safety; is that correct?

8      A. Yes. That was because of my ex-wife.

9      Q. And what happened with your ex-wife?

10     A. She told the club that I was telling on them.

11     Q. Was that the purpose, then, of your relocation then?

12     A. Yes.

13     Q. And when you testified in the Highwaymen case, what judge  
14            was that in front of?

15     A. Edmunds, Nancy Edmunds.

16     Q. Judge Edmunds?

17     A. Yeah.

18     Q. Just to be clear, not this judge, correct?

19     A. Correct.

20     Q. And for each of the trials that you testified in, was this  
21            in front of Judge Edmunds?

22     A. Yes.

23     Q. And was she aware that you wore a wire in this case?

24     A. Yes.

25     Q. And then who was the judge that sentenced you?

1      A. Edmunds.

2      Q. So that was the same judge that knew about you wearing a  
3      wire, and also that you had testified in front in those trials,  
4      correct?

5      A. Yes.

6                    MR. SATAWA: Objection. Asked and answered.

7                    THE COURT: Overruled.

8      BY MR. MAIATICO:

9      Q. Now, Mr. Peters, counsel had read you a selected portion of  
10     your testimony from last Friday. You remember testifying last  
11     Friday, correct?

12     A. Yes.

13                    MR. MAIATICO: And your Honor, for the record, defense  
14     counsel had read from page 150 in the jury trial transcript,  
15     Volume III, dated 10/17/2014, from line 18. I'm going to go  
16     back to line 15.

17      BY MR. MAIATICO:

18      Q. Do you remember me asking you, Mr. Peters:

19                    "Now, before you testified, did the prosecutors in  
20     that case," meaning the Highwaymen case, "make any promises to  
21     you?"

22     A. Yes. I remember that.

23     Q. And do you remember saying "no" to that?

24     A. Yes.

25     Q. Very next question:

1           "Did they provide you with any benefits in exchange  
2 for your testimony?"

3           Do you remember answering "no" to that?

4 A. Yes.

5 Q. So before you testified in the Highwaymen case, you were  
6 not made any promises, and you were not provided any benefits  
7 in exchange for your testimony; is that correct?

8           MR. SATAWA: Objection. Leading. 611.

9           THE COURT: Overruled.

10          THE WITNESS: Correct.

11 BY MR. MAIATICO:

12 Q. Now, Mr. Peters, you talked about signing the Rule 11 plea  
13 agreement. What was your obligation under the Rule 11 plea  
14 agreement in terms of providing information to the Government?

15 A. The truth.

16 Q. What would happen if you did not tell the truth?

17 A. It would be no good then.

18 Q. The Rule 11 plea agreement would be no good?

19 A. Yes.

20 Q. So are you telling the truth today?

21 A. Yes.

22           MR. DALY: Objection. That's self-serving. It's for  
23 the jury to decide only.

24           THE COURT: That's true. Although, it's certainly  
25 true in the ultimate analysis. However, the same points were

1      raised on cross-examination, almost exactly the same points.

2                Overruled.

3 BY MR. MAIATICO:

4 Q. So, Mr. Peters, are you telling the truth today?

5 A. Yes.

6 Q. Now, you talked about your prior cocaine distribution and  
7 your prior cocaine dealing, correct?

8 A. Yes.

9 Q. Was that profitable?

10 A. Yes.

11 Q. You said, you said to counsel on cross-examination that at  
12 one point, that was your primary source of income, correct?

13 A. Yes.

14 Q. You also said that you paid dues to the Highwaymen club?

15 A. Correct.

16 Q. And where would that money come from to pay your dues?

17 A. My drug money or if I made it trucking.

18 Q. So either from trucking or the drug money would go to pay  
19 your dues?

20 A. Yes.

21 Q. Now, what role did your membership in the Highwaymen club  
22 play in your ability to, to sell cocaine?

23 A. You got more customers. The more higher ranked you are,  
24 the more customers you get.

25 Q. So it was the -- can you explain that to the jury? It was

1      your ranking that determined the number of customers you would  
2      get?

3      A. Yeah. My ranking helped me progress higher in selling  
4      cocaine.

5      Q. So you're talking about your ranking in the club, correct?

6      A. Yes.

7      Q. And what would happen if someone tried to rob you of your  
8      drugs?

9      A. (No response.)

10     Q. Has that ever happened?

11     A. No.

12     Q. Okay. Why do you think that never happened?

13     A. It just never happened.

14     Q. Let's talk about the -- well, strike that.

15                All right. Mr. Peters, I want to talk to you a little  
16                bit about the incident that you testified to with the Jokers  
17                and the incident that occurred at the bar in the Brightmoor  
18                section.

19     A. Okay. Yes.

20     Q. All right. Now, was that a public bar?

21     A. Yes.

22     Q. Was that a known hangout for any other motorcycle club  
23                members?

24     A. The Jokers.

25     Q. Now, you testified, in fact, the Jokers clubhouse was close

1 by, correct?

2 A. Correct.

3 Q. Now, when you went to the bar the night of that incident,

4 you were not alone, correct?

5 A. Correct.

6 Q. You went with other motorcycle club members?

7 A. Yes.

8 Q. And from what motorcycle clubs?

9 A. Devils Diciples and Detroit Highwaymen.

10 Q. And what was the reason that you were going to that bar in  
11 the Brightmoor section?

12 A. To look for Jokers.

13 Q. And what were you going to do when you found the Jokers?

14 A. Probably beat them up.

15 Q. Was there a reason that you carried a gun that night?

16 A. No. I always carry a gun.

17 Q. Did that gun come in handy that night?

18 A. Yes.

19 MR. MAIATICO: I have no further questions.

20 THE COURT: All right. The witness may be excused.

21 And prepare to call your next, please.

22 MS. MOHSIN: Your Honor, our next witness is here.

23 We're just going to wait for Mr. Peters, if that's okay.

24 THE COURT: All right.

25 (Witness excused, 11:06 a.m.)

THE COURT: Is the next witness in custody or no?

2 MS. MOHSIN: No. The Government calls Special Agent  
3 David Opperman.

4 || (Witness is sworn.)

THE COURT: Have a seat.

6 MS. MOHSIN: Your Honor, may I have one moment?

7 THE COURT: Yes.

8 DAVID OPPERMANN

9 called as a witness at 11:06 a.m., testified as follows:

10 DIRECT EXAMINATION

11 | BY MS. MOHSIN:

12 || Q. Good morning.

13 A. Good morning.

14 Q. Would you please state your full name and tell the members  
15 of the jury by whom you are employed.

16 A. David Opperman. I'm a special agent with the FBI.

17 MS. MOHSIN: Your Honor, in accordance with the  
18 Court's request, this agent's testimony relates to Count 1, the  
19 RICO conspiracy; Count 2, the gambling conspiracy; Counts 3, 4,  
20 5, 27, and 28, which all relate to drugs, and methamphetamine  
21 in particular.

22 THE COURT: All right.

23 | BY MS. MOHSIN:

24 Q. What is your title, sir?

25 A. A special agent.

1 Q. And with what agency?

2 A. The FBI.

3 Q. How long have you been so employed?

4 A. Coming up on 13 years.

5 Q. Prior to your employment with the FBI, who were you  
6 employed by?

7 A. I was a police officer in northwest Indiana.

8 Q. And how long were you a police officer?

9 A. Approximately six and a half years.

10 Q. So in total, approximately how many years of law  
11 enforcement experience do you have?

12 A. Approximately 19.

13 Q. In the last 10-plus years you've been with the FBI, have  
14 those years been served here in Detroit, or the Detroit area?

15 A. In the Detroit area. I was assigned to the Macomb office,  
16 the Macomb RA.

17 Q. And is that in Macomb County?

18 A. Yes, it is.

19 Q. Do you work with Special Agent Bill Fleming?

20 A. I do.

21 Q. And have you worked many cases in conjunction with Special  
22 Agent Fleming?

23 A. Yes.

24 Q. As a co-case agent?

25 A. Yes.

1     Q. What are your current -- what's your current assignment?

2     A. Currently assigned to the Macomb office as one of the  
3        investigators.

4     Q. Now, I want to talk a little bit about the types of cases  
5        that you have worked on in the past.

6                  Could you briefly describe for the jury the types of  
7        crimes you've investigated and the types of matters you've  
8        worked on?

9     A. I've worked a lot of violent crime, for example, armed car  
10      robberies, bank robberies, or drug investigations and gang  
11      investigations, as well as child pornography investigations,  
12      white collar investigations.

13    Q. Have you done any public corruption cases?

14    A. Yes, I have.

15    Q. Okay. Roughly how many investigations would you say that  
16      you've personally been involved in?

17    A. 75 to 100.

18    Q. Okay. And during the course of those investigations that  
19      you've personally been involved in, or investigations you may  
20      have participated in, have you ever had occasion to interview  
21      individuals who are involved in criminal activities?

22    A. Yes.

23    Q. And approximately how many people would you say you've  
24      talked to that have been involved in criminal activities?

25    A. Hundreds, if not a thousand.

1   Q. Now, I want to direct your attention specifically to  
2 approximately 2004 through 2008. Did you work with Special  
3 Agent Bill Fleming during those years on the Devils Diciples  
4 case?

5   A. Yes.

6   Q. Now, at the time in 2004, what type of case was pending  
7 with respect to the matters that are in trial here today? I  
8 think you understand my question.

9   A. Correct. Late 2004 and early 2005, we were working an  
10 investigation related to methamphetamine production and  
11 distribution.

12   Q. Okay. Now, were you fairly active in this investigation  
13 during that time period?

14   A. Yes.

15   Q. And so I want to direct your testimony here today about  
16 that particular time period.

17   A. Okay.

18   Q. Did you become familiar with an individual by the name of  
19 John Pizzuti?

20   A. Yes.

21   Q. How did you become familiar with this individual?

22   A. That was probably in January of 2007, for a time-wise. It  
23 was -- I believe there was charges pending, and there was a  
24 proffer interview conducted, at which point we met.

25   Q. Now, you indicated that there were charges pending. Were

1      those charges, to your knowledge, pending against Mr. Pizzuti?

2      A. I believe so.

3      Q. And was that an FBI investigation or an investigation by a  
4      different agency?

5      A. I believe it was an ATF investigation.

6      Q. And did it come to your attention that Mr. Pizzuti was  
7      interested in cooperating?

8      A. Yes.

9                  THE COURT: I'm sorry to interrupt. Do you have a  
10        spelling for that last name?

11                  MS. MOHSIN: I do. P-I-Z-Z-U-T-I.

12                  THE COURT: Thank you very much.

13        BY MS. MOHSIN:

14      Q. Once it came to your attention that he was interested in  
15      cooperating, were you asked to participate in the interview?

16      A. Yes.

17      Q. Could you describe just briefly what the word "proffer"  
18      means? I think that's a term the jury may be hearing quite  
19      often in this case.

20      A. Yeah. Also referred to as having a *Kastigar* letter. But  
21      it's an agreement between the attorneys, the defendant, and the  
22      investigator that an interview will be conducted. And based  
23      upon that interview, those words will not be used against the  
24      individual as long as certain criteria are met, for example, as  
25      long as the information provided is truthful and forthcoming.

1 Q. So a proffer, is it your testimony, that that's basically  
2 an interview under certain conditions?

3 A. Yes.

4 Q. And the conditions that you referenced include a *Kastigar*?

5 A. Yes.

6 Q. Is the *Kastigar* a letter agreement?

7 A. Yes.

8 Q. Have you had an occasion to review *Kastigar* agreements?

9 A. Yes, I have.

10 Q. And who prepares those?

11 A. The AUSA assigned.

12 Q. What is an AUSA?

13 A. The Assistant United States Attorney assigned, like  
14 yourself.

15 Q. And is that an agreement between the Government and a  
16 defendant regarding the terms of that interview?

17 A. Yes, it is.

18 Q. So when Mr. Pizzuti indicated that he wanted to proffer or  
19 cooperate, did a *Kastigar* letter get contemplated or, you know,  
20 was that addressed?

21 A. To my recollection, it was.

22 Q. Once you -- did you have occasion to sit down and talk with  
23 Mr. Pizzuti?

24 A. Yes.

25 Q. And did you conduct a thorough interview of Mr. Pizzuti?

1      A. There were a number of interviews conducted.

2      Q. And so did you participate in any of those numerous  
3      interviews?

4      A. Yes.

5      Q. And what is the purpose, from your perspective, of an  
6      interview of someone who is interested in cooperating? What  
7      are you trying to achieve?

8      A. It's, for lack of a better term, it's getting to know one  
9      another, to understand what that individual can offer the  
10     Government through their information: What do they know, who  
11     do they know, what have they been involved in. It's an  
12     information-gathering session.

13     Q. And is it a passive information-gathering session? Or is  
14     there some active role that you play in receiving the  
15     information?

16     A. We take the information, and then, for example, if  
17     information is provided, we'll elaborate to gain clarification,  
18     to gain additional information. And then we'll document it.

19     Q. And after the information is obtained, do you conduct any  
20     further investigation?

21     A. Yes.

22     Q. And what is the purpose of doing that?

23     A. One, it could be used to corroborate the information  
24     received, but two, it's used to further the investigation.

25     Q. And what is the role of honesty in that agreement?

1      A. My understanding is you have to be honest. If you're not  
2 honest within that agreement, then your words can be used  
3 against you; that agreement becomes null and void.

4      Q. Now, was that type of an agreement -- is that the type of  
5 agreement that you're familiar with?

6      A. Yes.

7      Q. Is it fairly common?

8      A. Yes.

9      Q. So in January of 2007, or thereabouts, was that the  
10 beginning of a relationship between the Government and Mr.  
11 Pizzuti, to your knowledge?

12     A. Yes.

13     Q. And did you have a role in dealing with Mr. Pizzuti? In  
14 other words, once he had offered to cooperate, what was your  
15 role with respect to Mr. Pizzuti?

16     A. There are multiple agents assigned with cooperators, for  
17 example. I was the lead agent assigned.

18     Q. So as the lead agent assigned to handle Mr. Pizzuti, what  
19 did that mean for you?

20     A. Well, just that I would be a primary point of contact to  
21 receive information or to request information and then to  
22 document.

23     Q. Now, what were the different types of cooperation that an  
24 individual like John Pizzuti can offer?

25                  In other words, are there historical pieces of

1 information? Current pieces of information? What types of  
2 information could someone like that offer the Government?

3 A. Initially, it can be historical to start, the information  
4 that surrounds the past, associations, events, things of that  
5 nature.

6 It can move into the current time frame, what we refer  
7 to as a "listening post." By in current times listening, so  
8 you can report on things that are upcoming or things that are  
9 happening in current time.

10 It can also be proactive where we go out and use some  
11 of that information and go on and, for example, do recordings  
12 of meetings or phone calls, things of that nature.

13 Q. Directing your attention to the term "historical," can you  
14 be a little bit more descriptive about the types of information  
15 that you would have sought for Mr., or did seek for Mr. Pizzuti  
16 in this case?

17 A. Beyond associations, specifically in here, with  
18 associations with the Devils Diciples, members, chapters,  
19 officers, activities that were ongoing within the Devils  
20 Diciples. I suppose I can give you an example?

21 Q. Yes.

22 A. I believe on one of the reportings, was back in 2004, Mr.  
23 Pizzuti had reported that he was acquiring marijuana from a  
24 member of the Devils Diciples for approximately \$900 a pound.  
25 That was historical, and it was specific information that we

1      would glean.

2      Q. And what -- when you describe a listening post, can you be  
3      a little bit more descriptive about what that entails?

4      A. Yes. Similar to what it sounds, basically being involved  
5      as you overhear things, things that are upcoming. Someone  
6      discusses being engaged in a criminal act that's forthcoming,  
7      you would be able to report that information because you've  
8      heard it.

9                  You're at a meeting and you overhear people  
10     communicating about something, you're hearing that or acting as  
11     the listening post, and you'll be able to report that  
12     information.

13    Q. And before we talk about the third category, did Mr.  
14    Pizzuti provide information and was he a listening post?

15    A. Yes.

16    Q. So when he would provide you with information, can you  
17    describe for the jury mechanically how that worked?

18    A. Typically, I would take notes. It would be a small  
19    interview basically. Mr. Pizzuti would contact me and provide  
20    information. I would take the information. And then I would  
21    elaborate on the information if it needed to be elaborated on,  
22    more specifics about times or people involved, so I had a  
23    better understanding, similar to an interview I would do with a  
24    witness or somebody else. I would then, within that day or a  
25    few days, after document that in a report.

1     Q. So when you say that you would receive the information from  
2 Mr. Pizzuti, was that done in person? On the telephone? In  
3 some other way?

4     A. Both. Sometimes it would be on the telephone. Sometimes  
5 we would meet in person.

6     Q. And when you would speak with him, whether in person or on  
7 the telephone, and you indicated that you would elaborate, do  
8 you mean that you would ask him further questions or ask him to  
9 elaborate?

10    A. Correct. I would ask him further questions so that he  
11 could elaborate on the information.

12    Q. And once he provided you with information, what was your  
13 next step? Did you use that information?

14    A. Yes. And for an example, if it was for an upcoming  
15 meeting, something that was relevant to an investigation we  
16 were working on, we could make a decision on how we wanted to  
17 respond, maybe to establish surveillance for that date and time  
18 so we could identify people coming and going.

19    Q. And over time, did those types of events occur? In other  
20 words, did you establish various surveillances or conduct other  
21 follow-up?

22    A. Yes.

23    Q. And now I would like you to tell the jury what it means to  
24 actively or proactively cooperate.

25    A. Again, we covered historical and listening post, which is

1 again providing information. To be proactive, we would take it  
2 a step farther.

3 So as a listening post, we would receive information  
4 that there was going to be a meeting in a week. To be  
5 proactive, we would look to equip Mr. Pizzuti with a recording  
6 device so he would go in that meeting and record that meeting  
7 or record a meet with someone, or perhaps to purchase an item  
8 of evidence.

9 Q. And did he do that in this case?

10 A. He did.

11 Q. Did he record meetings?

12 A. Yes.

13 Q. And did he make purchases?

14 A. Yes, he did.

15 Q. And were you involved in most of those activities with him;  
16 in other words, directing him?

17 A. Yes.

18 Q. Now, of those three types of cooperation, do all  
19 cooperating defendants in your experience do all three?

20 A. No.

21 Q. And Mr. Pizzuti, was he able to successfully do all three?

22 A. Yes.

23 Q. Okay. I want to direct your attention now about the  
24 recordings that were made first. You indicated that he made  
25 several recordings; is that correct?

1 A. That's correct.

2 Q. And --

3 MS. MOHSIN: One moment, please, your Honor.

4 (Brief pause.)

5 BY MS. MOHSIN:

6 Q. Directing your attention to May the 15th of 2007. Was a  
7 recording made on that date?

8 A. Yes.

9 Q. Can you briefly summarize the circumstances leading up to  
10 that recording?

11 A. If I recall, there was a pending case involving Mr.  
12 Pizzuti, as we discussed earlier. It was related to, I  
13 believe, the February 19th, 2004 ATF searches amongst different  
14 members of the Devils Diciples.

15 Leading up to that May 15th date, those associated  
16 charges were being dismissed. And Mr. Pizzuti was going to  
17 travel with other members of the Devils Diciples to a service,  
18 I believe a funeral service or wake. We knew in advance that  
19 they were going to get together around the time that these  
20 charges were being dismissed.

21 Q. And when you say he was going to get together, do you know  
22 who he was supposed to get together with?

23 A. Yes.

24 Q. Who was that?

25 A. It was Paul Darrah and Jeff Smith.

1 Q. Were there others as well?

2 A. Yes. Previously, we didn't know who would be there.

3 Ultimately, it was Mr. Darrah and Mr. Smith and an individual  
4 named "Rebel."

5 Q. Is that a real name or nickname?

6 A. I believe that was a nickname.

7 Q. And how did you learn this meeting was going to occur?

8 A. I believe Mr. Pizzuti had reported to me earlier that it  
9 was going to occur; that he was going to be attending this.

10 Q. And did it, in fact, occur?

11 A. It did.

12 Q. And did the FBI, and you in particular, take any steps in  
13 anticipation of this meeting?

14 A. Yes.

15 Q. And what steps were taken, and why?

16 A. We met with Mr. Pizzuti prior to, and were able to equip  
17 him with a recording device that would record that meeting or  
18 while they were traveling to that service.

19 Q. I want to direct your attention for a moment on the  
20 recording device. Is that a device that Mr. Pizzuti had or is  
21 that a device that was provided to him by the FBI?

22 A. We provided the device.

23 Q. And does he keep it or does he have to return it to you?

24 A. He returns it.

25 Q. Is the recording device something that's capable of being

1 turned on and off?

2 A. It is, by us. We do not show -- for example, I did not  
3 show Mr. Pizzuti how to do that. But yes, we can turn it on  
4 and off.

5 Q. And is it something that is difficult for him to be able to  
6 do on his own?

7 A. It's difficult for me sometimes, and I know how to do it.

8 Q. Okay. The recording device that you described, was that  
9 provided to him prior to the meeting on May 15th?

10 A. Yes.

11 Q. And who turned it on, on that date?

12 A. If I recall, I believe I did.

13 Q. Okay. Were you assisted or accompanied by other agents on  
14 that occasion?

15 A. Yes. Any time we were going to go to a meeting or a  
16 recording, there would be at least two agents.

17 Q. And on that occasion, were you working with Special Agent  
18 Fleming?

19 A. I believe so, yes.

20 Q. Prior to the meeting occurring, did you make special  
21 arrangements to meet at a particular location with Mr. Pizzuti?

22 A. Yes.

23 Q. And tell the members of the jury about what procedure was  
24 employed before he was sent to the meeting with the recording  
25 device.

1      A. Just general conversation. I wanted Mr. Pizzuti to feel  
2 comfortable. One of the important things, provide him with a  
3 recording device, discuss where it could be worn for best  
4 reception, things of that nature, and then stress to Mr.  
5 Pizzuti not to go beyond what would be normal. For example, to  
6 do something or to, that would be unusual, could draw  
7 attention. And from a safety standpoint, we didn't want to  
8 draw attention. Safety was more important.

9           So just to be normal, to be -- to conduct themselves  
10 in a way that would be considered normal. Nothing unusual.

11 Q. Now, approximately how long was Mr. Pizzuti out of your  
12 care, in other words, with this recording device?

13 A. I don't recall the time frames. It would have been  
14 multiple hours.

15 Q. So after you provided him with these instructions, do you  
16 provide him with a recording device?

17 A. Yes.

18 Q. And then do you send him on his way?

19 A. Yes.

20 Q. What happens when he has completed this, this meeting or  
21 trip that he was on?

22 A. He would contact me by telephone and we would arrange to  
23 meet again where we would collect the recorder, deactivate.  
24 And then if there was time, we would debrief to gather  
25 additional information about the recording.

1   Q. And at some point, did you have an opportunity to review  
2   the recording?

3   A. I did.

4   Q. And at some point, was a transcript prepared?

5   A. Yes.

6   Q. How many times would you say you've reviewed that  
7   recording?

8   A. Multiple times. Two or three, maybe four.

9   Q. Okay. I want to direct your attention now to what's been  
10   marked really as a Government's Exhibit R-1.

11                 This is a CD containing multiple exhibits. So I'm  
12   going to ask you to keep it up there and identify one at a time  
13   as we go through.

14   A. Okay.

15   Q. Are you familiar with what's been marked Government's  
16   Exhibit R-1 through R-12?

17   A. Yes.

18   Q. And I want to direct your attention specifically to R-1  
19   through R-6. You had an opportunity to review the contents of  
20   R-1 through R-6?

21   A. Yes.

22   Q. And are those recordings that were made during the course  
23   of the investigation with John Pizzuti?

24   A. They were.

25   Q. And were transcripts prepared in connection with those six

1 recordings?

2 A. Yes, they were.

3 Q. And have you had an opportunity to review those  
4 transcripts?

5 A. I have.

6 Q. Are they substantially accurate transcriptions of the  
7 portions of the recordings that are at issue here?

8 A. Yes.

9 Q. Okay.

10 MS. MOHSIN: Your Honor, the Government would offer  
11 R-1 into evidence at this time. And we would like to publish  
12 it to the jury.

13 THE COURT: Any additional questions that are sought  
14 or any other matters?

15 Without any objection? And I hear none, or do I?

16 MR. DALY: Judge, we just have a standing objection  
17 that we would --

18 THE COURT: Standing, sure. This is without waiving.

19 MR. DALY: Yes.

20 THE COURT: Many of these things have been earlier  
21 discussed.

22 MR. DALY: Right.

23 THE COURT: Of course.

24 MR. DALY: Thank you.

25 THE COURT: And I don't mean to say anything to the

1      contrary.

2            MR. DALY: Thank you.

3            THE COURT: With no present or new matters to be  
4       brought before the Courts -- Court, the exhibit is admissible,  
5       it is received in evidence. And you may publish it to the  
6       jury.

7            (Exhibit R-1 received, 11:27 a.m.)

8            THE COURT: With or without printed transcripts being  
9       proffered?

10          MS. MOHSIN: It will be with the transcript. I was  
11       going to present that to him next.

12          THE COURT: All right.

13          MS. MOHSIN: Can I have a moment? I want to make sure  
14       our technical side is running.

15          THE COURT: Why would you have a moment's doubt?

16          MS. MOHSIN: I believe it is, your Honor. I hope that  
17       it is.

18          BY MS. MOHSIN:

19          Q. I'm going to show you what's been marked Government's  
20       Exhibit R-1A and ask you to identify it.

21          Tell the members of the jury what that is.

22          A. It's a transcript of portions of that recording from  
23       May 15th, 2007.

24          Q. And again, is that a transcript that you have had an  
25       opportunity to examine, if not prepare?

1      A. Yes. I've examined it.

2                MS. MOHSIN: Your Honor, at this time we're going to  
3 play this recording.

4                If there is a portion of the recording that we're  
5 going to ask to pause, I may pause it during it and ask you for  
6 further clarification.

7                THE COURT: And you're going to display on the screen  
8 the printed transcript?

9                MS. MOHSIN: It will be a scrolling transcript with  
10 the audio.

11               THE COURT: Okay. I'm going to need to tell the jury  
12 how this works.

13               MS. MOHSIN: Yes.

14               THE COURT: Ladies and gentlemen, the way that these  
15 things are received is as follows:

16               It is the recording itself that is the evidence, as  
17 you hear it, as you interpret it.

18               A transcript that was produced, either by a law  
19 enforcement officer or perhaps, perhaps secretarial or clerical  
20 assistants in a law enforcement office or some other way, the  
21 transcript is simply the product of somebody listening and  
22 writing down what that person hears.

23               It is certainly to be made available to you. It may  
24 well assist you. You may find it exactly spot on in every  
25 respect. On the other hand, there may be things that you hear

1      differently from time to time in various recordings. And there  
2      will be, I think, numerous recordings presented here.

3           My comments apply to all of them. Whenever there is a  
4      printed transcript offered, it is an aid to the jury. It is  
5      not evidence -- it is not the principal evidence in itself.  
6      The recordings, what you decide is on the recording is the  
7      evidence in the case.

8           Clearly understood? All right.

9           Any additional comments you'd suggest I --

10          MS. MOHSIN: Nothing.

11          THE COURT: -- consider in that regard?

12          MS. MOHSIN: No, your Honor.

13          THE COURT: Or for anybody on the defense? Have I  
14      accurately stated the law properly?

15          I don't hear any additional suggestions. So we'll  
16      proceed on that basis.

17          Let's go ahead.

18          MS. MOHSIN: Would you please publish R-1?

19          (11:30 a.m. - 11:31 a.m., publishing GX #R-1.)

20          BY MS. MOHSIN:

21          Q. One thing we ought do is identify the speakers of this  
22      call. I think you talked about who he was going to speak to.

23          Can you please identify who is referred to in this  
24      transcript, and by what initials?

25          A. "JS" is Jeff Smith. "PD" is Paul Darrah.

1 Q. And who is "CW"?

2 A. Cooperating witness, who is Mr. Pizzuti.

3 Q. And who is "R"?

4 A. "R" is Rebel.

5 Q. Okay. Are there any others that are noted on that  
6 transcript?

7 A. I don't believe so. I don't think so.

8 MS. MOHSIN: Okay.

9 (11:32 a.m. - 11:34 a.m., publishing GX #R-1.)

10 BY MS. MOHSIN:

11 Q. During that portion of the transcript, Special Agent  
12 Opperman, do you have an opinion about what is being discussed,  
13 the portion that was just played for the jury when the  
14 individuals are talking about "Monkey"? Do you know who that  
15 person is?

16 A. Yeah. There's a former Devils Diciples member that went by  
17 Monkey. That was his club name.

18 Q. And when they were talking about paperwork, do you have an  
19 opinion about what is being referred to?

20 A. Yeah. Paperwork that identified him as cooperating at some  
21 point during the investigation.

22 Q. Okay.

23 (11:35 a.m., publishing GX #R-1.)

24 BY MS. MOHSIN:

25 Q. After this recording, did the FBI record any other

1      communications?

2      A. Yes.

3      Q. I want to direct your attention now to August the 4th of  
4      2007. What occurred on that date?

5      A. That was the Devils Diciples, I believe it was the steak  
6      fry, one of their annual events at their Mount Clemens chapter  
7      clubhouse.

8      Q. And was something of significance going to occur with Mr.  
9      Pizzuti on that date?

10     A. Yes.

11     Q. Can you tell the members of the jury what was planned for  
12    that date, on the law enforcement end?

13     A. It was planned that Mr. Pizzuti was going to approach a  
14    Devils Diciple member, Vern Rich, club name "Vern," and attempt  
15    to purchase methamphetamine from him.

16     Q. Are you familiar with Vern Rich?

17     A. I am.

18     Q. Have you had opportunities to speak with him?

19     A. Yes.

20                MS. MOHSIN: Could you please publish 63-19 in  
21    evidence?

22    BY MS. MOHSIN:

23    Q. Can you identify the person in that photograph?

24    A. It appears to be Vern Rich.

25    Q. Okay. Thank you.

1           And so the plan was to attempt to purchase drugs from  
2 Vern Rich on that particular day?

3 A. Yes.

4 Q. Now, between May 15th of 2007 and August of 2007, is Mr.  
5 Pizzuti still cooperating?

6 A. Yes, he is.

7 Q. Is he still providing information?

8 A. Yes.

9 Q. And is the information that he is providing, how does it  
10 relate to Vern Rich?

11 A. I don't recall if it was in that window, or if it was prior  
12 to May, but it was during the time of cooperation, that Vern  
13 Rich was a supplier or distributor of methamphetamine.

14 Q. And that was the information that you were provided?

15 A. Correct.

16 Q. So what plan did you make with Mr. Pizzuti?

17 A. That he was going to approach Vern Rich at this steak fry  
18 or party and attempt to purchase methamphetamine for  
19 approximately \$500.

20 Q. Was Mr. Pizzuti a user of methamphetamine, to your  
21 knowledge?

22 A. No.

23 Q. Was he a drug user, to your knowledge?

24 A. Yes.

25 Q. Was it a drug other than methamphetamine?

1 A. Yes.

2 Q. So would it have been unusual for Mr. Pizzuti to request  
3 meth from Vern Rich?

4 A. Yes, it would.

5 Q. Can you explain that to the jury?

6 A. Explain how we handled that or --

7 Q. How you handled that, yes.

8 A. Yeah. It would be unusual. Again, we talked earlier that  
9 Mr. Pizzuti, especially for his own safety, would have to act  
10 normal; not to do anything that would be out of character. He  
11 advised he was not a methamphetamine user. So we came up with  
12 the idea that he was going to act as a middleman; that there  
13 was a friend of his or an acquaintance he knew that was  
14 attempting to purchase or acquire methamphetamine. He was then  
15 looking to acquire it for Mr. Rich so he could in turn sell it  
16 to this other individual.

17 Q. And in anticipation of purchasing the methamphetamine from  
18 Mr. Rich, you indicated that you had a meeting with Mr.  
19 Pizzuti; is that accurate?

20 A. Correct.

21 Q. What happened at that meeting?

22 A. Prior to the purchase?

23 Q. Yes.

24 A. We went with Mr. Pizzuti and we covered these same facts,  
25 the version of events he would use, what we call a "back

1 story." We also provided him with money. We provided him with  
2 \$500 cash that he would use for the purchase of  
3 methamphetamine.

4 We also provided him with a recording device. We were  
5 able to activate that recording device and then provide it to  
6 him.

7 In addition, during that meeting, we were able to  
8 search his person, and I believe it was his motorcycle, for any  
9 contraband prior to him leaving.

10 Q. And did all of those things occur?

11 A. They did.

12 Q. And did you provide him with the money?

13 A. Yes.

14 Q. And what did he do after he received the money and the  
15 recording device?

16 A. He was on his way.

17 Q. And did there come a time where he contacted you later?

18 A. Yes.

19 Q. And what, how did he contact you? Was it on the telephone  
20 or in person?

21 A. He contacted me by telephone and advised that he did make  
22 that methamphetamine purchase, and that we needed to get  
23 together so we could secure it as evidence.

24 Q. And did that occur?

25 A. It did.

1     Q. How did it occur? Explain that to the jury, please.

2     A. Mr. Pizzuti needed a reason to leave the function of the  
3     party. Again, it would be unusual to just up and leave. I  
4     believe the excuse he came up with was that he needed to get a  
5     pack of cigarettes.

6                   So when he departed the party to retrieve a pack of  
7     cigarettes, we met with him very quickly. He provided us a  
8     Ziploc bag containing an off-white kind of a chunky substance  
9     that he advised is what he secured. We also secured the  
10    recording device from him and secured that as well. Very  
11    quickly debriefed him, but it was quick because he had to get  
12    back to the function. He couldn't be away very long. Searched  
13    his person and bike and sent him on his way.

14    Q. Now, I want to back up for a moment. You indicated you  
15    gave him \$500 for the purchase of meth.

16    A. Correct.

17    Q. Did you give him money for any other purpose that day?

18    A. Yes.

19    Q. What was the, what was the amount of money and for what  
20    purpose?

21    A. We also gave him \$100 cash. We had information that there  
22    would be the gambling machines at the clubhouse and that these  
23    gambling machines accepted money and paid out money. So he was  
24    provided \$100 to play the different gambling machines that  
25    would be available at the party.

1     Q. And what was the purpose of having him play at the gambling  
2 machines?

3     A. Again, as part of the investigation into the illegal  
4 gambling to show those machines actually did accept money and  
5 take money from an individual; that they weren't just for  
6 amusement.

7     Q. In your career, have you come upon machines that were just  
8 for amusement?

9     A. Yeah. I believe I have. Yeah.

10    Q. And so the purpose here was to see if the machines were not  
11 for that purpose; is that correct?

12    A. Correct.

13    Q. Okay. At some point, did you have a conversation with Mr.  
14 Pizzuti about whether or not those funds, the \$100, were  
15 expended on those machines?

16    A. Yes.

17    Q. And did he indicate whether he had used them for that  
18 purpose?

19    A. Yes. I believe he advised that there were four, maybe four  
20 machines, two of which had bill acceptors, and the funds were  
21 utilized on those machines.

22    Q. The \$100 you just referenced?

23    A. Correct.

24    Q. So after he meets with you to provide you with the drugs  
25 and the recording device, you indicated that you secured the

1 recording device.

2 Did you do the same on the previous recording that we  
3 talked about, R-1? Was that also secured?

4 A. It was, yes.

5 Q. What's the procedure that you employ when you get a  
6 recording device from a cooperator?

7 A. Return it to the office in Macomb. And we have a  
8 designated computer system that we can download the recording  
9 from the device onto CD's or computer disks.

10 We then take that computer disk and we forward it to  
11 our ELSUR, which is electronic surveillance evidence in  
12 Detroit, and they secure it there as evidence. We are then  
13 able to generate working copies that we can utilize during the  
14 investigation.

15 Q. And did that occur with all of the recordings in this case,  
16 as they relate to Mr. Pizzuti?

17 A. Yes.

18 Q. And so when you met with Mr. Pizzuti and he gives you the  
19 recording device and provides you with the meth that he had  
20 purchased, did you listen to the recording right then and  
21 there?

22 A. No, not there in the vehicle. No.

23 Q. What did you do instead?

24 A. Again, once we secure it, return it to the office, we have  
25 to download the recorder. So it's a process with the computer

1 system to get a working copy that we can utilize.

2 Q. But did you debrief Mr. Pizzuti at the time? In other  
3 words, when he hands you that recording device and he hands you  
4 the drugs, do you have a conversation with him?

5 A. We do, but very briefly. Again, he was only supposed to be  
6 out to get a pack of cigarettes. He needed to get back to the  
7 party. An extended debrief would have been way longer than  
8 what would have been required to obtain the cigarettes. So we  
9 were going to debrief a little bit later.

10 Q. And did you debrief a little bit later about what had  
11 occurred?

12 A. Yes.

13 Q. Was there -- did the plan go as planned? Or was there  
14 something that had happened during the course of this steak fry  
15 that was different?

16 A. No. It went as planned, for the most part.

17 Q. And what did he tell you about what occurred while he was  
18 gone?

19 A. That he had approached Vern Rich at the party, and he  
20 relayed the information that he did have a friend that was  
21 seeking methamphetamine and he wanted to purchase  
22 methamphetamine.

23 Q. And did he purchase the methamphetamine from Vern Rich or  
24 from another person?

25 A. Vern Rich directed him that an individual by the name of

1 Gun Control would approach him and give him the methamphetamine  
2 and then collect the money from him.

3 Q. And did Mr. Pizzuti report that occurred?

4 A. He did.

5 Q. And did you have an opportunity to listen to a recording  
6 later on?

7 A. Yes.

8 Q. And during the course of the recording, what did you learn  
9 about how the transaction occurred?

10 A. Um --

11 Q. In other words, did he have a conversation with Vern Rich  
12 on the recording?

13 A. He did.

14 Q. And did he also have a conversation with, with Gun Control,  
15 or the person he identified as Gun Control?

16 A. He did.

17 Q. And was there conversation about the meth transaction  
18 during both portions of -- you know, in other words, was there  
19 conversation with Vern and with Gun Control about the  
20 methamphetamine?

21 A. There was a conversation with Vern Rich that was in regards  
22 to the methamphetamine and the pricing. The conversation that  
23 occurred with Gun Control, there was no conversation regarding  
24 meth. The conversation, if I recall, was regarding a  
25 motorcycle or brakes or something along those lines.

1     Q. So how did you know that that was the conversation that  
2 took place when the transaction occurred?

3     A. During the debrief, without letting Mr. Pizzuti hear the  
4 recording, we had asked him what was the conversation that you  
5 had had, or that he had had with Gun Control at the time the  
6 meth and money was exchanged. And he advised that there was  
7 something to do with oil and saddle bags and affecting the  
8 brakes of Gun Control's motorcycle. And we were able to  
9 identify that portion within the recording.

10    Q. So he told you that before listening to the recording?

11    A. He, he advised that without listening to the recording.

12    Q. And was that also before you listened to the recording?

13    A. No. I believe I listened to it all the way through at one  
14 point and then was looking for clarification.

15    Q. So you indicated that he provided you with a package  
16 containing methamphetamine as well. What did you do with the  
17 methamphetamine?

18    A. It was secured as evidence so that it could be later  
19 processed by a laboratory.

20    Q. Okay. I'm going to show you what's been marked  
21 Government's Exhibit 27-1.

22                  Have you had an opportunity to look at the proposed  
23 exhibit?

24    A. Yes.

25    Q. Can you tell me what that is?

1     A. This is our packaging, the larger what we call a K-pack bag  
2 with our FBI evidence seal. On the evidence seal, it indicates  
3 the date of seizure as August 4th of 2007. My name is the  
4 witnessing name and signature. Agent Fleming is the sealing  
5 name and signature.

6                 Contained within the K-pack bag are two different  
7 bags, the Ziploc plastic bag that the methamphetamine was  
8 received in initially, and then a separate bag here, I believe  
9 that after the lab had separated them out for testing purposes.

10   Q. So based upon the markings on the proposed exhibit, are  
11 those the drugs that Mr. Pizzuti provided to you on August the  
12 4th of 2007?

13   A. Yes.

14                 MS. MOHSIN: The Government offers Exhibit 27-1 into  
15 evidence.

16                 THE COURT: Hearing no objections, 27-1 is received.

17                 (Exhibit 27-1 received, 11:47 a.m.)

18   BY MS. MOHSIN:

19   Q. You made a reference to the exhibit being sent to the lab.  
20 Can you elaborate for the jury?

21   A. Drug evidence is consistently sent to a laboratory for  
22 analysis. Though we believe it's methamphetamine when we  
23 acquired it, again, we still rely on a laboratory to do the  
24 analysis of that and provide a report.

25   Q. And was that the case in this instance? In other words,

1      were those drugs submitted to a laboratory for testing?

2      A. I believe so, yes.

3      Q. Okay. When you obtained Government's Exhibit 27-1 from Mr.

4      Pizzuti, did it look like that or was it different in some way?

5      Can you be specific and show that to the jury?

6      A. Yeah. It was just contained within a Ziploc sandwich  
7      baggie, one you put your sandwich in. And then it contained  
8      the, like I said, the off-white chunky, crystal-type material.

9      Q. I'm going to show you what's been previously marked as  
10     proposed Exhibits 27-2 and 27-3.

11           Could you please describe what proposed Exhibits 27-2  
12     and 27-3 depict?

13      A. It's a photograph of the evidence we acquired that day.  
14      It's a Ziploc sandwich-type bag with the off-white chunky  
15      substance.

16           Above it is a placard, a piece of paper we'll write  
17      the case number, the date, the buy number, and the recording  
18      number.

19      Q. Were those photographs taken after you seized the meth from  
20      Mr. Pizzuti on the day that they were obtained?

21      A. Yes.

22      Q. So that was August the 4th of 2007?

23      A. I believe so. The photographs could have been taken the  
24      following day. The evidence can be secured in the safe, and  
25      then prior to the lab, being sent to the lab for analysis.

1 Q. Okay.

2 MS. MOHSIN: The Government offers proposed exhibits  
3 27-2 and 27-3 in evidence.

4 MS. STOUT: No objection.

5 MS. MOHSIN: Okay. Would you --

6 THE COURT: All right. Proceed.

7 (Exhibit 27-2 and 27-3 received, 11:50 a.m.)

8 MS. MOHSIN: Would you please publish 27-2?

9 BY MS. MOHSIN:

10 Q. And could you just describe that for the jury so they can  
11 understand?

12 A. Again, it's the same photograph I have here. It's a Ziploc  
13 sandwich bag. Contained in the bottom right-hand corner is  
14 that off-white, kind of a crystal or chunky substance. The  
15 piece of paper I referenced is above the Ziploc bag. It has  
16 the case number, the date and a recording and a buy number.

17 Q. And approximately how much methamphetamine was contemplated  
18 for the \$500 that was expended?

19 A. It was approximately 9 grams.

20 Q. And does that represent approximately 9 grams, to your  
21 understanding?

22 A. Yes.

23 MS. MOHSIN: Would you please publish 27-3?

24 BY MS. MOHSIN:

25 Q. Is that another photo of the same exhibit?

1 A. Yes, it is.

2 Q. Okay. Thank you.

3 You indicated that this particular transaction was  
4 recorded. Have you had an opportunity to examine the  
5 recording?

6 A. I have.

7 Q. And was a transcription prepared?

8 A. Yes.

9 Q. By you, or reviewed by you?

10 A. I know I've reviewed it. I may have prepared it. I don't  
11 recall.

12 Q. Is the transcription that you've reviewed substantially  
13 accurate?

14 A. Yes.

15 Q. I'm going to show you what's been marked as proposed  
16 Exhibit R-2A. If you can please describe what this is.

17 A. This is a transcript of that event on August 4th, 2007.

18 MS. MOHSIN: Your Honor, the Government would offer  
19 the recording R-2, accompanied by a transcription that would be  
20 played on the screen, similar to the last recording, in  
21 evidence.

22 THE COURT: As before, the recording is received. The  
23 transcript is advisory and you may proceed.

24 MS. MOHSIN: Thank you, your Honor.

25 Would you please publish this? And before you press

1 play, if you could put it up on the screen before you press  
2 play?

3 BY MS. MOHSIN:

4 Q. Who are the individual speakers in this particular call?

5 A. In this meet?

6 Q. This particular meeting, yes.

7 A. "CW" is, again, a cooperating witness, which is Mr.

8 Pizzuti. "VR" is Vernon Rich. Those are the only initials I  
9 see there.

10 Q. Is there a "CV" in addition?

11 A. At the top it does say "CV," Cary Vandiver. And then "UF"  
12 for unknown female.

13 MS. MOHSIN: Okay. Would you please play the  
14 recording?

15 (11:53 a.m. - 11:56 a.m., publishing GX #R-2.)

16 BY MS. MOHSIN:

17 Q. The first portion of that recording that was played, what  
18 is your understanding about who the speakers are?

19 A. Vern Rich, "VR" and John Pizzuti.

20 Q. Now, at this portion of the recording, is this where Mr.  
21 Pizzuti is no longer with Mr. Rich?

22 A. At this part?

23 Q. Yes.

24 A. Correct. At this part, I believe, I believe this is a  
25 phone call that Mr. Pizzuti is making at this point.

1 Q. All right. And can you tell the jury a little bit about  
2 that?

3 A. I'd have to see it to review it. I don't know if you want  
4 me to --

5 Q. Do you want to listen to it more?

6 A. -- listen to it first?

7 Q. Okay.

8 A. Or I can view the transcript first.

9 Q. Just let me know when to pause it.

10 (11:57 a.m., publishing GX #R-2.)

11 BY MS. MOHSIN:

12 Q. Can you explain what's going on?

13 A. Again, Mr. Pizzuti had acquired the methamphetamine at this  
14 point. He was calling me on the phone to let me know and  
15 briefly describing the incident on the phone so we can make an  
16 arrangement so we can secure that and the recording device from  
17 him.

18 Q. So this portion of the tape is him making a phone call to  
19 you?

20 A. Correct.

21 Q. And on the other end of the line, do you have a  
22 recollection of it being you who he's talking to?

23 A. Yes.

24 Q. Okay.

25 THE COURT: Before you, before you hit the play

1 button, let's just take a 60-second stretch break. Stretch  
2 your legs, folks.

3 (Brief pause.)

4 THE COURT: Back in session. And proceed.

5 MS. MOHSIN: Would you please continue the recording?

6 (11:59 a.m., GX #R-2 published to the jury.)

7 BY MS. MOHSIN:

8 Q. So the first part of that recording, what did that  
9 represent, so that the jury is clear?

10 A. The first part between?

11 Q. Vern Rich and the cooperating witness.

12 A. It was the negotiation for the purchase of methamphetamine.

13 Q. And after the, the negotiation is completed, is there a  
14 portion of that, that reflects when he, when the cooperating  
15 witness met with Gun Control?

16 A. Not within that transcript, no.

17 Q. And at the conclusion of it, is there a communication with  
18 you about the purchase?

19 A. Yes.

20 Q. And what happens after that conversation that Mr. Pizzuti  
21 has with you?

22 A. We then arrange to meet, and things we discussed earlier.  
23 We meet and I secure the methamphetamine from him, as well as  
24 the recording device so they can both be secured into evidence.

25 Q. Okay. Did you have occasion to make a second purchase of

1 controlled substances?

2 A. Yes.

3 Q. And can you tell the members of the jury about that  
4 particular purchase, the events leading up to it, in  
5 particular?

6 A. I believe it was September 1st of the same year, 2007, that  
7 Mr. Pizzuti was at a service, I believe it was a memorial  
8 service for another Devils Diciple member, when he had an  
9 opportunity to speak with Mr. Rich and informed him that he was  
10 looking to conduct a second transaction for possibly as much as  
11 a thousand dollars. They agreed they would talk later in the  
12 week via telephone. And I believe it was September 5th, in the  
13 evening, 2007, that we made arrangements to place a telephone  
14 call to Vern Rich from Mr. Pizzuti, and that we recorded that  
15 telephone conversation.

16 Q. And when that recording occurred, did that occur in your  
17 presence?

18 A. It did.

19 Q. And was the recording device in your care and custody?

20 A. It was.

21 Q. And was that recording device, or that recording downloaded  
22 as you described with the earlier recordings?

23 A. Yes.

24 Q. And was it also secured in evidence?

25 A. It was.

1 Q. Have you had an opportunity to review that recording?

2 A. I have.

3 Q. And was a transcript prepared?

4 A. It was.

5 Q. Have you had an opportunity to review that transcript?

6 A. Yes.

7 Q. And is it substantially accurate?

8 A. Yes.

9 Q. Okay. I'm going to identify for you what has been marked  
10 as a proposed exhibit, R-3A.

11 Can you tell the members of the jury what R-3A is?

12 A. It is a transcript related to the September 5th, 2007  
13 telephone call between Mr. Pizzuti and Mr. Rich.

14 Q. And does proposed Exhibit R-3A correspond to proposed  
15 Exhibit R-3, which is the recording?

16 A. Yes.

17 Q. Okay.

18 MS. MOHSIN: The Government would offer R-3 in  
19 evidence.

20 THE COURT: And I hear no additional comments or  
21 objections. As before, the transcript is advisory. The  
22 exhibit is received, R-3.

23 (Exhibit R-3 received, 12:03 p.m.)

24 BY MS. MOHSIN:

25 Q. Special Agent Opperman, what's the purpose of this phone

1 call?

2 A. Again, they had the discussion earlier in the week that  
3 they would call later in the week to arrange a second purchase  
4 of methamphetamine. And this call was to make that  
5 arrangement.

6 Q. Who are the parties to this particular call? Who is  
7 talking in this communication?

8 A. "VR" again, is Vern Rich. "CW," cooperating witness, again  
9 is John Pizzuti.

10 Q. And who placed the call?

11 A. John Pizzuti placed the call to Vern Rich.

12 MS. MOHSIN: Okay. Would you please publish R-3?

13 (12:04 p.m. - 12:08 p.m., GX #R-3 published to the jury.)

14 BY MS. MOHSIN:

15 Q. Based upon this communication, what is your understanding  
16 -- what is your understanding about what's going to occur after  
17 this telephone call?

18 A. The following day, they are supposed to have telephone  
19 contact, at which point in time they'll arrange to meet, where  
20 Vern Rich will provide \$1,000 worth of methamphetamine to John  
21 Pizzuti.

22 Q. And does that occur?

23 A. The methamphetamine is provided to John Pizzuti, but  
24 indirectly.

25 Q. Can you please explain that to the jury?

1      A. Yes. I was contacted the following day, I believe it was  
2 September 6th, 2007, by Mr. Pizzuti. We met. He advised me he  
3 received a telephone call that morning, approximately 9:30,  
4 from Paul Darrah.

5                Paul Darrah advised Mr. Pizzuti that Vern Rich dropped  
6 off the item that Mr. Pizzuti was looking for. And Mr. Darrah  
7 explained that they would get together that day and take care  
8 of it.

9                At approximating five o'clock p.m. that evening, Mr.  
10 Darrah, Jeff Smith, Cary Vandiver, and I believe two other  
11 individuals traveled to John Pizzuti's shop. I believe they  
12 were going to work on a vehicle.

13 Q. Now, Mr. Darrah, Mr. Smith, and you said Cary Vandiver?

14 A. Yes.

15 Q. Do you see them in the courtroom here today?

16 A. Yes.

17 Q. Can you identify them, please?

18 A. I can. Mr. Darrah is sitting on the far right with the  
19 brown jacket.

20                Mr. Vandarrah, or Vandiver, is sitting second from the  
21 left with the gray shirt.

22                Mr. Smith is sitting third from the left with a tan or  
23 oatmeal-colored shirt.

24                MS. MOHSIN: Identifying the defendants, your Honor,  
25 for the record.

1 BY MS. MOHSIN:

2 Q. You indicated that these individuals arrived at JP's shop  
3 or John Pizzuti's shop.

4 By the way, does John Pizzuti have a nickname?

5 A. Yes. It's "JP."

6 Q. Is that a name that's used in the Devils Diciples, to your  
7 knowledge, to refer to him?

8 A. Yes.

9 Q. Okay. So these individuals traveled to Mr. Pizzuti's house  
10 or shop? Where is that located?

11 A. It's in, I believe it's Shelby.

12 Q. Shelby Township?

13 A. Shelby Township, yes.

14 Q. Okay. So after Mr. Pizzuti advises you that there's going  
15 to be another party involved, what do you do?

16 A. Well, again, we meet and we're being debriefed. Mr.  
17 Pizzuti was always advised that if something like this were to  
18 occur, his response is simple: I don't have the money with me.  
19 I have to go and get the money. Which would provide us time to  
20 meet with him, to equip him with the recording device, as well  
21 as to provide the money necessary.

22 Q. So, "if something like this were to occur," what do you  
23 mean by that?

24 A. Meaning something unexpected. You know, I don't believe we  
25 anticipated this, Mr. Darrah calling, saying that he had the

1      methamphetamine that morning and he was going to provide it.

2      Q. So on September the 6th of 2007, after you learned that Mr.  
3      Darrah was going to be meeting with Mr. Pizzuti later that day,  
4      did you have a meeting with Mr. Pizzuti to provide him with  
5      money and other items?

6      A. Yes.

7      Q. Can you describe approximately how that meeting went down,  
8      how it took place?

9      A. Right. We met with Mr. Pizzuti. Again, we searched his  
10     person and vehicle quickly for any kind of contraband, provided  
11     him with \$1,000, I believe it was, cash, for the purchase. We  
12     also supplied him with additional funds, I think it was \$300  
13     separate from the transaction that was supposed to be utilized  
14     for club dues that were owed.

15            We equipped Mr. Pizzuti with a recording device placed  
16     on his person, and then he traveled back to his residence or  
17     shop.

18      Q. Now, you indicated that you provided him with \$1,000 and  
19     that you also provided him with money for club dues. What was  
20     the total amount that you provided him with?

21      A. \$1,300.

22      Q. And of that 1,300, you indicated that 300 was for club  
23     dues. Can you explain why he needed \$300 for club dues?

24      A. Yes. Devils Diciples members pay club dues, I think it's  
25     weekly dues, that are paid back to the organization. Since Mr.

1 Pizzuti's cooperation began, I believe in January of '07, part  
2 of that cooperation was contingent upon being a member for  
3 access and things of that nature. So those dues were adding up  
4 and he was, I believe, in arrears with those dues. So we  
5 secured \$300 to be used to pay those dues.

6 Q. Okay. Now, on September the 6th of 2007, after you provide  
7 him with the money, did you also provide him with the recording  
8 device?

9 A. Yes.

10 Q. And did you send him on his way?

11 A. Yes.

12 Q. What occurs after you send him on his way? Did he contact  
13 you?

14 A. Yes.

15 Q. And can you describe that for the jury?

16 A. He contacts me and then we arrange to meet, as with the  
17 first transaction. We meet. He then provides the  
18 methamphetamine to me. It was contained in a sandwich-type  
19 bag, balled up, round up in a ball, placed in a Marlboro  
20 cigarette box. He also provided me with the recorder, which  
21 was deactivated. Both items were secured as for evidence and  
22 he was debriefed.

23 Q. And when you say that he provided you with the drugs on  
24 that occasion, approximately how much in quantity of drugs-wise  
25 would you estimate was contained in that second purchase?

1      A. It was approximately 12 grams.

2      Q. Okay. And what did you do with the recording device and  
3      the drugs?

4      A. Secured them both for evidence. The recording device, as  
5      with the first recording, was taken back to the office,  
6      downloaded, and secured a copy in ELSUR evidence, and created a  
7      working copy. The drugs were also secured as evidence, later  
8      to be provided to a laboratory for analysis.

9      Q. I'm going to show you a proposed Exhibit 28-1. Do you  
10     recognize this proposed exhibit?

11     A. I do.

12     Q. Can you tell the members of the jury what it is?

13     A. Again, this is one of our packaging, we call them K-pack  
14     bags. It contains the FBI evidence sticker. On the inside of  
15     this bag has been resealed from the lab after analysis. On the  
16     sticker, it has the date of seizure, and sealing, sealing  
17     officials, printed name, myself with the signature. The  
18     witnessing agent was Bill Fleming. And again, it contains a  
19     small Ziploc package inside containing an off-white colored  
20     crystal-like substance.

21     Q. And were those the -- or was that the package that was  
22     provided to you by Mr. Pizzuti on September the 6th of 2007?

23     A. Correct. Contained within here -- again, there's multiple  
24     bags returned from the lab -- it was a sandwich bag that was  
25     balled up and placed in the box. But this has the sticker and

1       stuff.

2       Q. And was that particular quantity of drugs contained inside  
3       of anything on that particular day? In other words, was it  
4       packaged in another box?

5       A. Correct.

6       Q. What type of box was it?

7       A. A Marlboro cigarette box.

8       Q. Okay. Is that Marlboro box contained in that exhibit?

9       A. No. I don't see it.

10      Q. All right.

11           MS. MOHSIN: The Government offers 28-1 into evidence.

12           THE COURT: Without objection, the same is received.

13           (Exhibit 28-1 received, 12:16 p.m.)

14           THE COURT: 28-1, correct?

15           MS. MOHSIN: Yes, your Honor. 28-1.

16      BY MS. MOHSIN:

17      Q. I'm going to draw your attention to what has been  
18       previously marked as proposed Government's Exhibits 28-4, 28-5,  
19       and 28 -- I apologize. 28-4 and 28-5.

20           Would you please describe what's depicted in those two  
21       proposed exhibits?

22      A. The first, 28-4, there is a, it's a ball, balled up in a  
23       plastic bag, appears to be twisted or knotted, that is the  
24       methamphetamine.

25           To its left is a Marlboro cigarette box, which is what

1      that ball was placed in. The paper underneath for photographic  
2      purposes, you can see the date, September 6th, 2007. William  
3      Fleming's initials, and listed as buy number 2.

4            In the second photo, 28-5, it's a photograph of the  
5      cigarette box, the other side of it. And it does not contain  
6      the methamphetamine in that photo.

7      Q. And were those photographs taken before the drugs contained  
8      in Government's Exhibit 28-1 were analyzed by the laboratory?

9      A. Yes.

10     Q. So is that what they looked like when Mr. Pizzuti provided  
11    them to you?

12     A. Yes.

13     Q. On September, on September 6th?

14     A. Yes.

15            MS. MOHSIN: The Government offers 28-4 and 28-5 in  
16    evidence.

17            MS. STOUT: No objection.

18            THE COURT: Without objection? None is heard. And  
19    the items are received.

20            (Exhibit 28-4 and 28-5 received, 12:18 p.m.)

21            MS. MOHSIN: Could you please publish 28-4?

22    BY MS. MOHSIN:

23     Q. Okay. Can you explain that for the jury, briefly?

24     A. Yes. That's the photograph. You'll see to the right is  
25    the methamphetamine. It's about the size of a bouncing rubber

1 ball. It's in a plastic bag twisted to the top. To its left  
2 is the Marlboro cigarette box that that ball was contained in.  
3 And you can see underneath is the piece of paper that I  
4 described with the date, initials in the upper left-hand corner  
5 indicating buy number 2.

6 Q. Thank you. 28-5, please?

7 A. This is the same cigarette box flipped over, the back side.  
8 And again, this photograph doesn't contain the methamphetamine  
9 in it.

10 Q. Okay. Thank you.

11 Now, you indicated that this particular buy on  
12 September the 6th of 2007, that there was also a recording.  
13 Have you had an opportunity to examine the recording?

14 A. I have.

15 Q. And was a transcript prepared and reviewed by you?

16 A. Yes.

17 Q. And have you had an opportunity -- withdrawn.

18 I'm going to show you what's been previously marked as  
19 proposed Exhibit R-4A. Would you please tell the Court what  
20 that document is?

21 A. It is a transcript dated September 6th, 2007. It was the  
22 meeting between Mr. Darrah and John Pizzuti. The initials that  
23 you'll see on the transcript are "PD" for Paul Darrah, "CW" for  
24 cooperating witness, which is John Pizzuti.

25 Q. Is that transcript substantially accurate?

1 A. Yes.

2 Q. Does that transcript correspond to proposed Exhibit R-4?

3 A. It does.

4 MS. MOHSIN: The Government offers R-4 in evidence to  
5 be played in conjunction with R-4A, the transcript.

6 THE COURT: And hearing no further comment or  
7 objection, it is received. And you may proceed.

8 MS. MOHSIN: Thank you, your Honor.

9 Would you please publish R-4?

10 (12:20 p.m., GX #R-4 published to the jury.)

11 BY MS. MOHSIN:

12 Q. After that recording was made and admitted into evidence,  
13 were there additional recordings that occurred with Mr.  
14 Pizzuti?

15 A. Yes.

16 Q. And did you participate in a third controlled buy?

17 A. I did not.

18 Q. I want to direct your attention, though, to additional  
19 cooperation by Mr. Pizzuti. To your knowledge, how many  
20 controlled purchases did he make of methamphetamine on behalf  
21 of this investigation?

22 A. Three.

23 Q. And other than those three controlled purchases, did he  
24 continue to act as a listening post?

25 A. He did.

1 Q. And did he continue to cooperate?

2 A. He did.

3 Q. Did there come a time where Mr. Pizzuti advised you about  
4 his Vicodin use?

5 A. Yes.

6 Q. Can you tell the members of the jury about that?

7 A. I believe we understood that, that Mr. Pizzuti was possibly  
8 obtaining Vicodin from Paul Darrah.

9 Q. Okay. And was he -- did he bring that to your attention  
10 initially or is that something that you asked him about later?

11 A. We asked him about it later.

12 Q. Okay. And can you tell the members of the jury about that?  
13 How did that arise and why did you ask him about it later?

14 A. Again, I believe it came to our attention that he was  
15 possibly obtaining Vicodin from Paul Darrah. It was an  
16 associated investigation for him down the road at a later date.  
17 And we broached it with Mr. Pizzuti and we asked him -- we  
18 could not divulge how we had learned about it, we couldn't  
19 reveal the sources of information. And I think Mr. Pizzuti  
20 initially denied that he obtained Vicodin, or at least  
21 minimized his participation with that.

22 Q. Okay. And did that all occur after the third controlled  
23 buy in this case?

24 A. Yes. It didn't occur until 2008.

25 Q. So when was the third controlled buy, to your knowledge?

1    A. I believe it was October 26th of 2007.

2    Q. Okay. Now, in this particular case, were wires -- was  
3    wiretap evidence used?

4    A. Yes.

5    Q. And was there a court-authorized wiretap on one phone or  
6    more than one phone, to your knowledge?

7    A. There were two phones.

8    Q. Okay. I want to direct your attention now to what the word  
9    "wiretap" is. Are you familiar with that term?

10   A. I am.

11   Q. Okay. Does it go by another name as well in law  
12   enforcement vernacular?

13   A. We call it a Title III.

14   Q. And what is a Title III or a wiretap?

15   A. Simply, it's the court-ordered interception of telephone  
16   communications in real time.

17   Q. Have you, during your career, worked on investigations that  
18   use wiretaps as an investigative tool?

19   A. Yes.

20   Q. Approximately how many times?

21   A. To date, approximately four occasions.

22   Q. Now, when someone's phone is being wiretapped in real time,  
23   are there recordings that are made of the communications?

24   A. There are.

25   Q. And are those recordings that are made preserved in any

1 way?

2 A. They are.

3 Q. Okay. We're going to talk a little bit about that, but  
4 let's talk about how you get a wiretap in the first place.

5           If an agent wants, like yourself, wants to put a  
6 wiretap on someone's phone, can you do that because you suspect  
7 that person of committing a crime?

8 A. No, we can't.

9 Q. Okay. What about a case? Do you begin a case with a  
10 wiretap?

11 A. No. It's more of the last investigative tool that we would  
12 utilize.

13 Q. Now, when you say that you would not just put a wiretap on  
14 a phone, is there a procedure that you have to follow?

15 A. Yes.

16 Q. And are there certain steps that you have to take before  
17 you can get a wiretap?

18 A. Yes.

19 Q. By the way, how does a wiretap get authorized? Is that  
20 something that is done within an agency or outside of that  
21 agency?

22 A. The ultimate authority?

23 Q. Yes.

24 A. Ultimately, it's a decision made by a federal judge.

25 Q. Okay. So prior to making or, or applying for a wiretap,

1      what type of things do you typically do, and, you know,  
2      investigatively?

3      A. We refer to them as less intrusive methods. For example,  
4      an investigation, we may start with reviewing police reports  
5      about events that have occurred surrounding the investigation.

6                MS. STOUT: I'm going to object to the relevance of  
7      this, your Honor.

8                THE COURT: I'm satisfied it is relevant. Go ahead.

9                MS. MOHSIN: Thank you, your Honor.

10          THE WITNESS: In addition, we'll conduct telephone  
11      analysis. You know, if we have a target telephone that we  
12      intend to seek a Title III for, we'll look at the analysis of  
13      that phone, who is that phone in contact with, how often are  
14      they in contact. We'll conduct surveillance throughout the  
15      investigation. We'll look to develop informants or cooperating  
16      witnesses that provide information.

17          We would then go and, of course, attempt to do  
18      recordings, whether it's purchasing evidence, telephones,  
19      meetings. All this leading up to a potential Title III.

20          BY MS. MOHSIN:

21          Q. And is a Title III or wiretap done in every case?

22          A. No.

23          Q. So you indicated that you've worked on four to date; is  
24      that true?

25          A. Correct.

1     Q. And that includes the wiretaps in this particular case; is  
2 that true?

3     A. That's correct.

4     Q. Okay. Now, mechanically, when you, when you decide that  
5 you want to obtain a wiretap, and you've gone through all of  
6 these other avenues of investigation, how do you make a  
7 presentation to a judge?

8                 MS. STOUT: Objection. Relevance and 403, your Honor.

9                 MR. DALY: May I just join in, too, that this is not  
10 an issue, Judge. It is a legal matter. I would object.

11                 THE COURT: It is. But it seems to me it could be  
12 explained by the Court; it could be explained by counsel. I  
13 think it is sufficiently relevant for background, for a citizen  
14 jury's understanding of the Title III process, which is complex  
15 to say the least.

16                 Overruled. Proceed.

17     BY MS. MOHSIN:

18     Q. Does an agent such as yourself present an affidavit or an  
19 application to a judge?

20     A. Yes.

21     Q. And is that provided to a judge, along with an affidavit?

22     A. Yes.

23     Q. And if the Court determines that a wiretap should be  
24 authorized under the law, is an order issued?

25     A. Yes, it is.

1     Q. And when you obtain an order for a wiretap, what do you do  
2 with a document like that?

3     A. If the order is approved and received, we work with our  
4 technical agents at the FBI. They would provide that order to  
5 the associated cellular telephone company. They would work  
6 with that telephone company so that intercept could begin.

7     Q. So there are a number of steps that you would have to take;  
8 is that a fair statement?

9     A. Yes.

10    Q. I want to direct your attention to this particular case.  
11 You indicated that you engaged in a number of different types  
12 of activities. Did you review police reports before any  
13 wiretap applications were proposed to a federal judge in this  
14 case?

15    A. Myself or fellow agents, investigators, yes.

16    Q. And did yourself and fellow agents conduct surveillances?

17    A. Yes.

18    Q. And did yourself and fellow agents interview witnesses or  
19 cooperators?

20    A. Yes.

21    Q. Did yourself and fellow agents participate in the execution  
22 of search warrants?

23    A. Yes.

24    Q. Did yourself and fellow agents, as you just testified, also  
25 make controlled purchases?

1 A. Yes.

2 Q. Now, all of those things, did they occur before an  
3 application was made for a wiretap in this particular case?

4 A. They did.

5 Q. Now, what was the first wiretap that was requested? Whose  
6 phone was that for?

7 A. It was for Vern Rich.

8 Q. And that was the individual that you have been testifying  
9 about in some detail this morning?

10 A. Yes.

11 Q. Okay. When you're talking about a wiretap for Vern Rich's  
12 phone, are you talking about a wiretap for a telephone or some  
13 other type of communication?

14 A. It's a cellular telephone.

15 Q. And are there wiretaps for other types of communications?

16 A. Yes.

17 Q. What types of communications could you do a wiretap on?

18 A. I believe the key is real-time. So for example, if you  
19 could intercept real-time e-mails, or text messages, you could  
20 real-time intercept communications in a room.

21 Q. Okay. But in this case, specifically when we're talking  
22 about Vern Rich, we're talking about a telephone?

23 A. Yes.

24 Q. Not e-mails or texts, correct?

25 A. Correct. And this telephone, it also had the capability of

1      the walkie-talkie-type feature, push-to-talk. It was a Sprint  
2      Nextel phone that was popular in 2007.

3      Q. Now, is a -- when a wiretap order is issued by a judge, are  
4      there limitations on the way in which interceptions can occur,  
5      in other words, what you can and cannot listen to?

6      A. Yes.

7      Q. And are there limitations on the parties that you can and  
8      cannot listen to?

9      A. There can be. Yes.

10     Q. Okay. Are there limitations about the nature of the  
11    conversations that you can and cannot listen to?

12     A. Yes.

13     Q. How long does a wiretap order or approval last? In other  
14    words, can you listen to the phone from the day that the order  
15    is issued in perpetuity forever?

16     A. No, ma'am. It's typically good for a 30-day period.

17     Q. What happens after that 30-day period?

18     A. That intercept will expire unless we petition the Court for  
19    an extension.

20     Q. Now, if you petition a court for an extension, do you have  
21    to follow that same process of preparing an application and  
22    submitting an affidavit?

23     A. Yes.

24     Q. And does that require independent review, again, of that  
25    particular request?

1      A. It does.

2      Q. And that is by the same judge; is that correct?

3      A. It is.

4      Q. Now, when you indicated that this was an extension, are  
5 extensions for the same period of time, again, 30 days? Or are  
6 they for some other period of time?

7      A. They are for 30 days again.

8      Q. In the Vern Rich wire, did you or fellow agents request an  
9 initial wiretap and an extension?

10     A. Well, initially we requested the --

11            MR. SATAWA: Objection, your Honor. This has also  
12 been covered during Agent Fleming's testimony. Asked and  
13 answered.

14            MS. MOHSIN: Your Honor --

15            THE COURT: On these very wiretaps? On this --

16            MR. SATAWA: No.

17            THE COURT: -- same wiretap? Has this been covered?

18            MS. MOHSIN: Your Honor, we did a bird's eye view of  
19 the investigation, but now we're seeking to introduce the  
20 actual wiretaps in the case. That was introductory testimony.  
21 This is actually laying a foundation for the admission of the  
22 wiretaps.

23            MR. SATAWA: The wiretaps are admitted. There's no,  
24 there is no contesting the authenticity of the wiretaps.

25            THE COURT: Briefly -- I'll conditionally overrule the

1      objection. Proceed rapidly through, perhaps with leading  
2      questions to set the stage.

3                MS. MOHSIN: Your Honor, I think our foundation is in  
4      response to the opening statement.

5                THE COURT: I see. Well, the objection nonetheless is  
6      overruled. So proceed.

7                MS. MOHSIN: Thank you, your Honor.

8 BY MS. MOHSIN:

9 Q. So you indicated that there was an initial application, and  
10     then later, there was a request for an extension?

11 A. Yes.

12 Q. For how long was the Vern Rich wire approved?

13 A. The initial application, 30 days. Then there was a 30-day  
14     extension. We received data from approximately September 6th,  
15     2007, I believe, through November 23rd of 2007.

16 Q. Now, after you obtained the Court authorization, you had  
17     indicated earlier that there are limitations on who you can and  
18     cannot listen to; is that correct?

19 A. That's correct.

20 Q. Can you describe for the jury what types of requirements  
21     agents have with respect to what they can and cannot listen to  
22     a wiretap?

23 A. Yes. First and foremost in the affidavit, we identify what  
24     we call interceptees. These are individuals we intend to  
25     listen to conversations between. So if they are a named

1      interceptee and there's conversations between them, there's  
2      really no requirement to minimize and identify.

3                If there's a phone conversation that occurs between  
4      the target telephone and someone who is not an interceptee,  
5      someone who hasn't been identified in the affidavit, then there  
6      are limitations. We're only allowed to listen to that  
7      conversation if it's pertinent or relevant to the  
8      investigation.

9      Q. Is there something in the law that you're instructed about  
10     when you go up on a wire that's called minimization?

11     A. Yes.

12     Q. Tell the members of the jury what your understanding is  
13     about minimization.

14     A. Minimization is a process during the Title III when you're  
15     monitoring a call, if a determination is made that we don't  
16     have the authorization or should not listen to that call, we  
17     minimize it. By minimizing it, it literally mutes the call.  
18     We can no longer listen to what's going on.

19     Q. And are there certain protocols that you follow with  
20     respect to minimization for, in other words, when you're first  
21     listening to a wiretapped communication between two parties and  
22     you don't know if there's going to be any sort of pertinent  
23     conversation?

24     A. Yes.

25     Q. Please describe that.

1      A. In referring to the monitors, there's a minimization  
2 process and a memo and a briefing by the AUSA that's assigned.  
3 But within that process, it's generally two-minute rule, that  
4 within the first two minutes of a conversation, you can analyze  
5 what that conversation is to make the determination on whether  
6 it's relevant or pertinent, or not.

7 Q. And what if a determination is made that it's not  
8 pertinent?

9 A. At that point in time, if it is not two named interceptees,  
10 we would minimize that call.

11 Q. And is there something called spot monitoring?

12 A. Yes.

13 Q. What is that?

14 A. Once we minimize the call, again, kind of the rule of two,  
15 we would go back during that conversation if it was still  
16 ongoing. After a brief minimization, we would spot check or we  
17 would briefly listen to that call again to determine if the  
18 conversation had changed. Are they talking about the same  
19 non-pertinent matter, or has it changed and now the  
20 conversation is pertinent? If it changes to something  
21 pertinent, we would listen. If it continues to be  
22 non-pertinent or non-relevant, again, we would minimize.

23 Q. Now, mechanically, what does it look like when you're  
24 intercepting calls? Is there always an agent present when a  
25 call is being -- when a call is active?

1      A. Yes.

2      Q. So tell the members of the jury how you go about  
3 intercepting communications. What does it look like?

4      A. The equipment is, like a typical computer, there's a  
5 monitor and screen. The agent or monitor has to go in and open  
6 the investigation, select that phone number and start  
7 monitoring. It won't monitor without that action.

8                 Once a call is received, a voice dialogue box opens on  
9 the monitor. And within that box, you have the ability to type  
10 notes or summaries.

11                It also provides information such as the direction of  
12 the call, whether it's incoming or outgoing. It lists a date  
13 and time, and also the associated phone number that's being  
14 contacted or being called.

15      Q. And the information that you just described about an  
16 outgoing call or an incoming call, the date and the time and  
17 the associated phone number, is that information that is  
18 provided to you from the telephone company?

19      A. Correct.

20      Q. And is that pursuant to the Court's order, as well?

21      A. Yes.

22      Q. In other words, it's not provided from the agents; that's  
23 information coming from the company?

24      A. Correct, it's my understanding.

25      Q. And when you say that the person who is monitoring that

1      particular shift has to activate the investigation, what does  
2      that mean?

3      A. That, again, without a monitor, we're not intercepting or  
4      listening to calls. That agent has to physically open up the  
5      screen, open up the case, select the phone number, and  
6      physically select with the use of a mouse to start monitoring.

7      Q. Did you engage in that activity in the Vern Rich wire?  
8      Were you one of the monitors?

9      A. I did monitor some, yes.

10     Q. And what happens after a call is monitored? Are there  
11    transcripts or preliminary notes that are taken?

12     A. Correct. The monitor, depending upon the amount of time  
13    they have, will put a summary or some notes. They can also  
14    determine, and check the box if it was relevant or pertinent so  
15    it could be followed up later.

16     Q. Where are the recordings maintained?

17     A. They are maintained within the computer. It's what's  
18    called an optical disk. My understanding is that there are two  
19    that sit side-by-side within the computer and they record all  
20    the events of the Title III.

21     Q. And what happens at the conclusion of a particular Title  
22    III to the optical disks?

23     A. The one optical disk is removed from the system, a sealment  
24    order is generated and it is produced to a judge and sealed as  
25    evidence.

1 Q. And is this optical disk accessible to the case agents  
2 during the course of the wiretap? In other words, is it  
3 something that you can effect --

4 A. No.

5 Q. -- during the course of the interceptions?

6 A. No, ma'am.

7 Q. Who is responsible for maintaining it?

8 A. In place?

9 Q. In place, and afterwards.

10 A. The technical agents would have to assist with its removal  
11 so we could seal.

12 Q. Okay. Now, I want to direct your attention to the Vern  
13 Rich wire. You indicated that an application was made. Who  
14 were the interceptees on that particular wire?

15 A. On the initial application, I believe there were five. It  
16 was Vern Rich, John Riede, Lauri Ledford, Paul Darrah and Jeff  
17 Smith.

18 Q. And for what type of crimes were requested?

19 A. I believe it was for the distribution of narcotics, as well  
20 as conspiracy to do so. And I believe there was a telephone  
21 count, use of a telephone communication to further the  
22 conspiracy.

23 Q. Now, you indicated two of the individuals that were  
24 interceptees were Lauri Ledford and John Riede. I'm going to  
25 show you Exhibit 63-15 and 63-20 and ask you if you can

1 identify them.

2           Would you please describe?

3 A. 63-15 appears to be a photograph of Lauri Ledford.

4 Q. And 63-20?

5 A. John Riede, a photograph of John.

6           MS. MOHSIN: Your Honor, the Government would move to  
7 admit 63-15 and 63-20 in evidence.

8           MS. STOUT: No objection.

9           THE COURT: No objection? The same are received.

10           (Exhibit 63-15 and 63-20 received, 12:42 p.m.)

11           MS. MOHSIN: Would you please publish 63 -- 63-15?

12 BY MS. MOHSIN:

13 Q. Who is depicted in this photo, Special Agent Opperman?

14 A. Appears to be Lauri Ledford.

15 Q. And would you publish 63-20?

16 A. A photograph of John Riede.

17 Q. Okay. Do you know whether John Riede has a nickname?

18 A. He does.

19 Q. What is it?

20 A. It is "Bear."

21 Q. Okay. You indicated an extension was requested. Were  
22 there any additional interceptees that were added in the  
23 extension?

24 A. Yes, I believe there were.

25 Q. Who were they?

1 A. Ken Roll, Howard Quant and Dan Burby, I believe.

2 Q. Now, after the Vern Rich wire -- or withdrawn.

3 During the course of the Vern Rich wire, were search  
4 warrants executed in November of 2007?

5 A. Yes. I believe it was November 15th.

6 Q. Of 2007?

7 A. Yes.

8 Q. Did there come a time where a request was made for a  
9 wiretap for another phone?

10 A. Yes.

11 Q. Whose phone was that request made for?

12 A. Paul Darrah's.

13 Q. And when was that authorized by the Court?

14 A. I believe it was March 20th of 2008.

15 Q. Was the same approval process followed for that telephone,  
16 as was for the Vern Rich phone?

17 A. Yes.

18 Q. Did you come to learn whether Mr. Darrah had obtained a  
19 telephone number, or a different telephone number than the one  
20 that he had been using throughout the investigation?

21 A. Yes.

22 Q. Can you tell the jury about that?

23 A. Yes. I believe the date was November 16th of 2007, the  
24 date after the initial searches were conducted related to the  
25 Vern Rich wire. We learned that Mr. Darrah had obtained a new

1      cellular telephone number.

2      Q. And with what company was that?

3      A. It was MetroPCS. I believe it was 586-222-1791.

4      Q. Who were the named interceptees for the wire on the Paul  
5      Darrah phone?

6      A. On the initial application, there were two: Paul Darrah  
7      and Jeff Smith.

8      Q. Okay. And was this wiretap request for -- was this wiretap  
9      looking for evidence involving RICO allegations?

10     A. Yes.

11     Q. Was that the first time that the RICO charge was  
12    contemplated during the course of this investigation?

13     A. To my knowledge.

14     Q. Was that wiretap authorized?

15     A. It was.

16     Q. And were there extensions to that particular wiretap?

17     A. Yes. Six, I believe.

18     Q. What was the duration of each of the extensions?

19     A. Approximately 30 days.

20     Q. So beginning when, until when, and ending on what date,  
21    were wire interceptions conducted on Paul Darrah's phone?

22     A. From March 20th, 2008, I believe until October 5th of 2008.

23     Q. Roughly how many days would you, would you approximate that  
24    is?

25     A. Approximately 200 days.

1     Q. Now, have you had occasion to determine how many of the  
2 calls in that particular wire were completed, marked pertinent,  
3 minimized, et cetera?

4     A. Yes.

5     Q. Could you provide some information to the jury about that?  
6 How many were pertinent?

7     A. For Mr. Darrah's phone?

8     Q. Yes.

9     A. Pertinent calls, I believe there were 1,395, I believe.

10    Q. Okay. Is that an approximation?

11    A. Approximately.

12    Q. Okay. Do you remember how many were minimized?

13    A. Number of calls minimized?

14    Q. If you need to refresh your recollection, please let me  
15 know and I'll provide you with a report.

16    A. Yes. There is a report generated that has all the -- I  
17 just don't want to confuse the numbers.

18    Q. Would your investigative file assist you?

19    A. It is.

20    Q. Okay.

21    A. For Mr. Darrah's telephone?

22    Q. Yes.

23    A. Would you like me to just read the relevant numbers?

24                   MS. MOHSIN: If there's no objection.

25                   THE COURT: I see none?

1 MS. MACERONI: Well, I guess I'd like some context.

2 Is he just going to start listing numbers or --

3 MS. MOHSIN: I can ask questions, your Honor.

4 THE COURT: Go ahead.

5 MS. MOHSIN: Sure.

6 BY MS. MOHSIN:

7 Q. How many calls were completed?

8 A. The number of completed calls during that span were 18,467.

9 Q. And what is a completed call, as opposed to a different  
10 type of call?

11 A. My understanding is a call that was placed and answered or  
12 received, where the connection was completed.

13 Q. And so there may have been a larger number of calls that  
14 were not completed?

15 A. Yes.

16 Q. How many of those completed calls were deemed pertinent?

17 A. 1,395.

18 Q. And how many were minimized?

19 A. 784.

20 Q. Were there a number of calls that exceeded the 2-minute  
21 requirement requiring minimization?

22 A. Yes.

23 Q. Can you tell the jury about that?

24 A. The number of calls that exceeded the 2-minute duration  
25 were 1,904.

1     Q. Okay. Now, when you say 1,904 calls exceeded the two  
2 minutes, those would have required some sort of determination  
3 about minimization if they were not named interceptees?

4     A. Correct.

5     Q. What did you do with the optical disks in the Paul Darrah  
6 wire?

7     A. Again, they were removed from the system, presented to a  
8 judge with a sealment order, sealed, and then forward to the  
9 ELSUR evidence room in Detroit.

10    Q. Okay. And were efforts made to identify the callers on  
11 both of these wires?

12    A. Yes.

13    Q. What type of identifications or what were the basis of  
14 those identifications?

15    A. First and foremost, as described earlier, prior to the  
16 application process, there was an extensive amount of telephone  
17 analysis that was done, calls that were frequently in contact  
18 with. So we obtained subscriber information for those phones  
19 so we had an understanding of who was using them.

20               Once the Title III was ongoing, on a lot of the calls  
21 that were completed, they'd identify themselves by name, which  
22 was a second way.

23               And then thirdly, a number of the voices were familiar  
24 from previous interviews or contacts.

25    Q. Okay. And then in some instances, did you obtain

1 subscriber information or was that provided in due course with  
2 the court order?

3 A. A lot of it was provided prior to, or we obtained some for  
4 numbers that were unknown.

5 Q. Okay. And to the best of your knowledge, were these  
6 conversations that were recorded made voluntarily by the  
7 speakers?

8 A. Yes.

9 Q. Now, I'm going to show you what's been previously marked as  
10 a proposed Exhibit T-1 to T-333.

11 Tell the members of the jury what that is.

12 A. It's a computer disk. It contains telephone calls from the  
13 two wire intercepts.

14 Q. And does each number, T-1 through T-333, correspond to a  
15 wire interception?

16 A. Correct, to an individual call.

17 Q. And have you had an opportunity to examine all, and listen  
18 to all of the calls on that particular exhibit?

19 A. Yes.

20 Q. And were those calls that you examined and listened to  
21 transcribed?

22 A. Yes.

23 Q. Were those transcripts examined by you or Special Agent  
24 Fleming -- and Special Agent Fleming, I should say?

25 A. Yes.

1       Q. And was the purpose of that to determine if they were  
2 substantially accurate transcriptions of the recordings?

3       A. Correct.

4       Q. Okay.

5                   MS. MOHSIN: Just one moment, please?

6                   (Brief pause.)

7       BY MS. MOHSIN:

8       Q. I'm going to show you what's been marked as proposed  
9 Exhibit T.

10                  Can you describe Government's proposed Exhibit T?

11       A. It's a table which contains exhibit numbers, call numbers,  
12 which identifies what call, the date, time, call data, parties  
13 involved and duration from each of the calls that are listed  
14 related to the CD.

15       Q. Is Government's proposed Exhibit T a summary of that type  
16 of information from Government's proposed Exhibit T-1 through  
17 T-333?

18       A. Yes.

19       Q. And have you had an opportunity to review proposed Exhibit  
20 T and compare it with the wire calls that are relevant in this  
21 case, T-1 through T-333?

22       A. Yes, I have.

23       Q. And is it accurate?

24       A. It is.

25                   MS. MOHSIN: Nothing further for the witness. Thank

1 you, your Honor.

2 THE COURT: Shall we have cross-examination after the  
3 lunch hour? We just have a few minutes here left to go. The  
4 jury can prepare to leave the courtroom here. Prepare to put  
5 your books aside. Lunch either has been delivered or will be  
6 delivered into your jury rooms. We'll resume at two p.m.,  
7 ladies and gentlemen, two p.m. Please escort yourselves to the  
8 jury room.

9 (Jury out, 12:53 p.m.)

10 THE COURT: Unless there's any reason for a record  
11 before we recess? I don't see any suggestions to that effect.  
12 So we will stand in recess. Thank you.

13 MR. SATAWA: Your Honor, may I ask an off-the-record  
14 question? May I approach?

15 (Off the record discussion at the side of the bench.)

16 (Recess taken, 12:54 p.m. - 2:06 p.m.)

17 THE CLERK: All rise. Court is back in session.

18 THE COURT: Be seated, please. The jury has been  
19 notified that we're ready to proceed. The witness is present,  
20 I note, but I'm also told that counsel want to take up matters  
21 outside the hearing of the jury first.

22 MS. STOUT: If it please, your Honor. And I know you  
23 asked me to wait on this motion and I absolutely will, if  
24 that's the Court's wishes, but I only wanted to put on the  
25 record that the next witness being called --

1           THE COURT: Which is whom?

2           MS. STOUT: Which is Mr. --

3           MS. MACERONI: Pizzuti.

4           MS. STOUT: -- Pizzuti, I apologize, Mr. Pizzuti is  
5 impacted by this whole argument because Ms. Maceroni needs to  
6 seriously cross this gentleman and it's hard to say how  
7 prepared she could be. I'm certainly not prepared for him,  
8 because so much of the information was just recently received.

9           THE COURT: Recently, meaning what?

10          MS. STOUT: I tried to find where it was in my motion,  
11 and you have to excuse me, because I'm tired. But some of the  
12 Pizzuti stuff, and maybe Patty can address it -- Ms. Maceroni  
13 can address it better than I, was just recently received in the  
14 2,200-some-odd pages in the several, many, many hours of  
15 recordings we received.

16          Go ahead, Ms. Maceroni.

17          MS. MACERONI: Thank you, Ms. Stout.

18          Yes, your Honor. There was quite a bit of material  
19 that was given last week, which I'm still in the process of  
20 organizing and getting sequestered for this witness. And  
21 which, for the record, Mr. Darrah has not seen at all, other  
22 than what I've been able to give him Thursday and Friday of  
23 last week, because Mr. Naughton picked up the iPad from the  
24 Wayne County Jail, loaded everything on over the weekend, since  
25 Mr. Darrah does not have access to the iPad on the weekend, and

1      is actually going to hand deliver the iPad back to the Wayne  
2      County Jail.

3                 But more significantly, your Honor, is 51 pages of  
4      agent notes that were e-mailed over the weekend, I got them  
5      Sunday morning, dealing with Mr. Pizzuti's phone calls into  
6      Agent Opperman and I believe Agent Fleming, although I haven't  
7      had a chance to sit down and look at those in any in-depth  
8      detail.

9                 I have one or two agent notes concerning phone calls  
10     that were received by Mr. Pizzuti from that Agent Opperman  
11     authorized -- or authored -- that I got with Mr. Opperman's  
12     information a month ago, but these are 51 additional new ones  
13     that I have not had an opportunity to fully review.

14                 More importantly, I have not had an opportunity to sit  
15     down and discuss with Mr. Darrah. So that really prejudices my  
16     ability to be able to cross-examine this witness today, given  
17     the fact that I just haven't had a chance to go through that  
18     material and I certainly have not had chance to discuss it with  
19     Paul.

20                 THE COURT: Right. Would it not, then, be a suitable  
21     pressure relief maneuver to pass on cross-examination of this  
22     witness and require him to be brought back to have the topic  
23     refreshed and then, at a later time, to cross-examine him once  
24     having had the opportunity to review the materials in greater  
25     detail? I'll simply require him to be made available at your

1 call at a later stage in the prosecution's case.

2 MS. MACERONI: If that's agreeable to the Court,  
3 then --

4 THE COURT: Well, I'm suggesting it as, as a fairly  
5 rudimentary way of handling an attorney who credibly says I'm  
6 not ready right now, and I can't be ready, because I've just  
7 gotten this material, and so on and so forth.

8 Crediting everything that you're saying, including the  
9 inability, relative inability of your client to readily review  
10 these things, why don't we just basically pass, pass on the  
11 witness, but reserve the opportunity, which will be an option,  
12 by the way, because I can imagine a circumstance in which,  
13 later on, with full review of the information, defense counsel  
14 might say, I don't want to see him again. That happens from  
15 time to time, in my experience.

16 So, but the option would be yours. And the witness --  
17 I have no idea, I don't even know where he's stationed, but  
18 wherever it may be, he can be, he can be recalled. Would that  
19 work, do you think?

20 MS. MACERONI: I believe so.

21 THE COURT: It seems to address your concerns, most of  
22 which are timing, not procedural, and timing in nature and not  
23 so much substance.

24 What do you think, Ms. Mohsin? Not the best of all  
25 possible solutions, but workable?

1           MS. MOHSIN: Your Honor, I imagine it would be  
2 workable. I guess our only concern is, you know, we have  
3 been readjusting witnesses to accommodate the defense. If  
4 Mr. Pizzuti is to testify today, I don't -- we have very few  
5 witnesses left for today. In other words, we were going to  
6 call Mr. Pizzuti, and then Special Agent Fleming to follow up  
7 on his testimony.

8           THE COURT: Okay.

9           MS. MOHSIN: I don't have any other witness today,  
10 because my expectation was that we were going to use this time  
11 to conduct that cross-examination.

12          THE COURT: Of this witness?

13          MS. MOHSIN: Of Mr. Pizzuti, who is after this  
14 witness.

15          So my primary issue, your Honor, is that we've been  
16 providing information to the defense on an ongoing basis about  
17 what witnesses we're going to call, so that they can be  
18 prepared and we have reshuffled several to accommodate them.  
19 It just becomes difficult from a scheduling point of view, from  
20 our end, to keep the courtroom flush with witnesses.

21          THE COURT: Ms. Maceroni, are you talking about  
22 cross-examining this witness, this FBI witness? Are you  
23 talking about cross-examining Mr. Pizzuti? Or both?

24          MS. MACERONI: No. Based on his direct testimony  
25 today, I'm fully prepared to go forward with Agent Opperman.

1 My concern is John Pizzuti.

2 THE COURT: Ah. How long is his direct testimony  
3 going to be?

4 MS. MOHSIN: I would expect perhaps half an hour to an  
5 hour, depending on -- he presents some other issues that's the  
6 subject of our memorandum.

7 THE COURT: All right.

8 MS. MOHSIN: He's undergone some significant treatment  
9 for cancer and as a consequence, it's had some ability -- it's  
10 had some effect on his ability to communicate. So I, I  
11 anticipate that could -- may or may not have an impact on the  
12 length of the testimony.

13 THE COURT: Why don't we proceed, see what the  
14 substance of the direct examination is. That is going to feed  
15 into this determination by defense counsel as to whether and  
16 to what extent there may be any further need for delay or  
17 reexamination of the discovery that's been provided. I think  
18 we should just proceed here, and we'll see where we are at the  
19 conclusion of his direct. Okay, Ms. Maceroni?

20 MS. STOUT: Okay. Thank you, Judge.

21 THE COURT: All right. Let's call the jury in.

22 (Jury in, 2:13 p.m.)

23 THE COURT: All right. Good afternoon, ladies and  
24 gentlemen. The jury has assembled. For the record, the Court  
25 recognizes the presence of all attorneys and all counsel.

1           Before we begin questioning, I made myself a note  
2 unrelated to this witness's testimony, but related to the  
3 testimony of the previous witness, Mr. Peters.

4           A number of times, the questioning from both sides  
5 related to "the Rule 11" or "your Rule 11" or "were you offered  
6 a Rule 11." There was some discussion of that. I just wanted  
7 to clarify from, from the position of the Bench, the reference  
8 to Rule 11 is one rule in the Federal Rules of Criminal  
9 Procedure. It describes, in some detail, plea agreements;  
10 guilty plea agreements, what can be done, what can't be done,  
11 how they are to be organized.

12           Some plea agreements are, are merely verbal and very  
13 simple. Others are more complicated. Most of them that I've  
14 seen, almost all, 90 or more percent are in writing in a  
15 document that's quite complete and thorough and so forth.

16           So again, "Rule 11" refers to the rule that governs  
17 guilty plea agreements between a defendant and the Government.  
18 Very often, though, in conversation, when lawyers and  
19 defendants refer to "the Rule 11," what they are referring to  
20 probably is the document, the collection of papers that is  
21 stapled together that, that describe the arrangements that  
22 govern that particular guilty plea.

23           So I'll take that note and discard it.

24           And you may continue with your examination, whomever  
25 that may be.

1           Ms. Maceroni?

2           MS. MACERONI: Yes, sir.

3           THE COURT: All right. You may proceed.

4                           CROSS-EXAMINATION

5           BY MS. MACERONI:

6           Q. Good afternoon, agent.

7           A. Good afternoon, ma'am.

8           Q. You testified quite a bit about the procedure that your  
9 office goes through in obtaining a Title III wiretap order,  
10 correct? Do you recall that testimony?

11          A. Correct.

12          Q. And correct me if I'm wrong, sir, but when that decision is  
13 made that, as you testified earlier, is after you've gone  
14 through executed search warrants, reviewed other police  
15 reports, interviewed certain witnesses, correct?

16          A. We possibly did those other techniques, yes.

17          Q. Well, you just -- you testified you just don't apply for a  
18 Title III wiretap out of the blue, correct?

19          A. Correct.

20          Q. And in fact, you don't do it in every case?

21          A. Correct.

22          Q. Correct? Okay.

23                         So in this instance, in this investigation, you  
24 testified that you had reviewed police reports, correct?

25          A. Correct.

1 Q. There had been search warrants that had been executed?

2 A. Correct.

3 Q. And you talked to other witnesses, correct?

4 A. Correct.

5 Q. Okay. And based on that then, you and Agent Fleming then  
6 made the decision, it's time to go to a Title III; is that how  
7 it works?

8 A. I don't recall who made the decision, but we petitioned for  
9 a Title III --

10 Q. Okay.

11 A. -- in the investigation.

12 Q. And that's within your agency, the FBI?

13 A. Working with the U.S. Attorney's Office.

14 Q. Working with the Government?

15 A. Correct.

16 Q. Okay. So it's a governmental decision?

17 A. Correct.

18 Q. And then once you come forward into court, the physical  
19 mechanics of it, correct me if I'm wrong, you're asking the  
20 District Court Judge for this Title III permission, based on  
21 assertions you make on the record, correct?

22 A. Within the affidavit, yes.

23 Q. Within the affidavit.

24 And it's not subject to review by a third party,  
25 correct? It's just the information that you present to the

1 judge?

2 A. I don't know if I understand "third party."

3 Q. Well --

4 A. There's a review. Many people review, so I'm not sure I  
5 understand.

6 Q. In the Government, they review it?

7 A. Correct.

8 Q. Correct?

9 A. Correct.

10 Q. Okay. All right. No defense attorney is --

11 A. No, ma'am.

12 Q. -- looking at any type of affidavit, correct?

13 A. No, ma'am.

14 Q. And it's not contested by any adverse party, correct?

15 A. That's correct.

16 Q. All right. And in the Title III affidavit, you state, do  
17 you not, that you believe that a Title III -- you have a  
18 suspicion that a Title III may lead to information concerning  
19 ongoing criminal activity?

20 A. Correct.

21 Q. It's a suspicion that you have as the law enforcement  
22 agency, correct?

23 A. Correct.

24 Q. Now, you indicated when you were going through your report,  
25 that in looking at the Title III's on the Paul Darrah cell

1 phone, there were 18,467 calls?

2 A. Completed calls.

3 Q. Completed calls. 18,000?

4 A. Correct.

5 Q. And you minimize -- those 18,000, there were what you  
6 deemed to be pertinent, 1,395?

7 A. I believe that's the number, yes.

8 Q. And you minimize 784?

9 A. I believe that's the number, correct.

10 Q. All right. And you were working with Agent Fleming through  
11 the course of this investigation, correct?

12 A. Yes.

13 Q. And at times, you were working with Agent Juan Herrera; is  
14 that correct?

15 A. Correct.

16 Q. All right. And when John Pizzuti came forward and became a  
17 cooperating witness for you, you were his handler, primarily;  
18 is that a correct statement?

19 A. Correct.

20 Q. And during the course of your interviewing with  
21 Mr. Pizzuti, you indicated that he had problems with drug use,  
22 correct?

23 A. It's my understanding, yes.

24 Q. Okay. And he would call in and just report to you at  
25 certain periods of time during the course of his working with

1       your agency; is that a correct statement?

2       A.    Correct.

3       Q.    Okay. And at times, you would make summaries of some of  
4           the phone calls that he would make to you concerning the  
5           activities of the Devils Diciples Motorcycle Club; do you  
6           recall those?

7       A.    Right. If there was a reporting, we would generate a  
8           report.

9       Q.    Okay. And these reports were pretty brief?

10      A.    It depends on the substance of the conversation or the  
11           meeting.

12      Q.    Do you recall a report that you made on June 19th, 2007?

13      A.    Off the top of my head, no.

14      Q.    If I show you a copy of what's been given to me dated  
15           June 19th, 2007 entitled, Working Copy, would that refresh your  
16           recollection?

17      A.    Possibly.

18                  (Document tendered to witness.)

19      Q.    Just take a minute and read through that.

20      A.    (Witness reading.) Yes.

21      Q.    Okay. Now, does this detail a conversation that you had  
22           with Mr. Pizzuti?

23      A.    Yes, it does.

24      Q.    Okay. And his name is not mentioned in here, though, but  
25           you're sure that this was him, correct?

1   || A. Yes.

2   Q. And in fact, this report was approved by Mark Daniel  
3   Bolling. Who is that?

4   A. At the time, he was my supervisor.

5   Q. Okay. And when did Mr. Pizzuti call you concerning the  
6   information in this report?

7   A. I don't recall.

8                 Again, I'm sorry, if you want me to memorize, or  
9   remember specific dates --

10   Q. Okay.

11   A. I remember the substance of it.

12   Q. Okay.

13   A. June 18th, 2007.

14   Q. Okay. So on June 18th, 2007, you got a phone call from  
15   Mr. Pizzuti, correct?

16   A. I believe so.

17   Q. Okay. Well, this is concerning an investigation you had  
18   with Mr. Pizzuti, right?

19   A. Correct. But I don't know if that's telephone, I don't  
20   know if that's a meet. It's information that was provided by  
21   Mr. Pizzuti.

22   Q. On June 18th, 2007?

23   A. I believe so.

24   Q. Okay. And didn't he tell you, sir, that he had spoken with  
25   Paul Darrah on June 7th, 2007?

1      A. If that's in the report, yes.

2      Q. Okay. Well, I don't want to put words in your mouth.

3                THE COURT: If a witness's present memory can be  
4 refreshed by reference to a document other --

5                THE WITNESS: Yes.

6                THE COURT: -- or something similar, and has then a  
7 present memory of the event, then the witness can answer that.  
8 But if there's going to be past memory recorded that's going to  
9 be introduced, then that's a different -- that's a somewhat  
10 different procedure.

11               So back and forth to refresh -- I'm not, I'm not sure  
12 what I'm seeing here is memory being refreshed. I think I'm  
13 seeing the details of a report just being introduced as past  
14 memory.

15               Is that right or wrong, Counsel? What do you --

16               MS. MACERONI: I'm confused, Judge. I'm sorry.

17               THE COURT: There's a difference between memory --  
18 present memory refreshed and past memory recorded. It's just  
19 two different procedures.

20               MS. MACERONI: Okay. I can clear it up, I think.

21               THE COURT: Okay.

22 BY MS. MACERONI:

23 Q. Agent, as you sit here today, do you have a memory of the  
24 conversation that you had with Mr. Pizzuti, which is the basis  
25 of this report?

1 A. Yes. Briefly.

2 Q. Okay. And in fact, didn't Mr. Pizzuti tell you that on  
3 June 7th, 2007, he had contacted Paul Darrah?

4 A. Yes.

5 Q. Okay. And he specifically asked Mr. Darrah if Mr. Darrah  
6 knew anyone who was selling crank. What is crank?

7 A. I believe he was referring to methamphetamine.

8 Q. Okay. And in fact, in your report, you say, "or meth."  
9 And Mr. Darrah informed the source that no one in the club was  
10 selling meth; isn't that correct?

11 A. I believe that's correct.

12 Q. Okay. Well, that's in your report, is it not?

13 A. Yes.

14 Q. And your report is what was told to you by Mr. Pizzuti on  
15 or about June 18th, correct?

16 A. Correct.

17 Q. And "the club" specifically meant the Devils Diciples  
18 Motorcycle Club?

19 A. Yes.

20 Q. Now, you testified a little bit on your direct that  
21 Mr. Pizzuti had been known to use illegal substances,  
22 controlled substances while he was in the club, correct?

23 A. I don't know I testified that while he was in the club.  
24 I believe I testified that he had used them in the past.

25 Q. Okay. And primarily cocaine was his drug of choice; isn't

1      that correct?

2      A. I believe so.

3      Q. And you testified that you, yourself, had set up on him the  
4 recording devices for the calls that were played for the jury  
5 earlier today. Do you recall that?

6      A. Yes.

7      Q. Okay. Now, there were other times that Mr. Pizzuti was  
8 given a tape recorder or a recording device that you weren't  
9 specifically involved with; is that a fair statement?

10     A. Yes.

11     Q. Would you approximate how many times, based on your  
12 knowledge of the investigation, Mr. Pizzuti was given a  
13 recording device and sent off?

14     A. Well, two different things, so if you can clarify?

15                 Recording device for a telephone, no one sent off.

16                 Recording device for meetings, there's separation, so.

17     Q. Well, how many times was he given a recording device for  
18 phone calls?

19     A. I can tell you it was approximately 20 recordings, roughly.  
20     How many of them were telephone, how many of them were  
21 meetings, I'm not sure.

22     Q. Okay. And when he went into -- I want to go back to that  
23 first phone call or that first recording that was played for  
24 the jury today, you testified that you gave him \$100 for slot  
25 machine money, gambling money?

1 A. I don't believe that was the first recording played.

2 Q. Was it the second recording played? My notes are bad?

3 A. I believe it might be the second.

4 Q. Okay. So one of the times that he was given money to talk  
5 to Vern Rich, you had given him extra money to play the slot  
6 machines at the clubhouse; is that correct?

7 A. Correct.

8 Q. And you recall playing that recorded conversation for the  
9 members of the jury today?

10 A. Yes.

11 Q. Now, there's nothing on that recording that indicates that  
12 he was playing slot the machines, correct?

13 A. On the recording played, no.

14 Q. So there's no objective evidence that, in fact, that's what  
15 he did with that \$100, based on the recording; isn't that  
16 correct?

17 A. No, that's not correct.

18 Q. On the recording that you played for the jury today,  
19 detailing the incident where Mr. Pizzuti was given an extra  
20 \$100, there's nothing on that recording that was played in  
21 court today that indicates that he used that \$100 for gambling?

22 A. That's correct.

23 Q. Thank you.

24 Now, you testified in front of the grand jury  
25 concerning this investigation, correct?

1      A. I believe so.

2      Q. And Agent Fleming testified in front of the grand jury  
3 concerning this investigation, correct?

4      A. I believe he did.

5      Q. Okay. And were you aware that during the course of at  
6 least one of the times that Mr. Pizzuti was wearing a recording  
7 device, he was heard to use cocaine?

8      A. I'm not aware of a specific drug at all, specifically. I  
9 do vaguely remember recording that something might have been  
10 used, but I don't know if there were words. I don't know if I  
11 could say that that's what it was.

12     Q. So if Agent Fleming testified in front of the grand jury  
13 that he was heard on the recording device snorting a line of  
14 cocaine --

15                MS. MOHSIN: Objection, your Honor, as to what Agent  
16 Fleming testified to with respect to this witness. She can ask  
17 that of Agent Fleming.

18                MS. MACERONI: Well, I can ask him what he's aware of  
19 during that investigation.

20                THE COURT: If we want to go into officer's or agent's  
21 understanding of the situation based upon their discussions  
22 with other agents in the course of the investigation, is that  
23 what you're suggesting?

24                MS. MACERONI: Yes, sir.

25                THE COURT: Ms. Mohsin, on that basis?

1 MS. MOHSIN: On that basis, it's fine.

2 THE COURT: All right. Go ahead.

3 MS. MACERONI: Thank you.

4 BY MS. MACERONI:

5 Q. During the time that you were working with Agent Fleming on  
6 Mr. Pizzuti's cooperation, did Agent Fleming ever inform you  
7 that Mr. Pizzuti was heard on the recording device snorting a  
8 line of cocaine?

9 A. I believe my point is I'm not sure if I can be certain it  
10 was cocaine. I know there was a discussion about snorting a  
11 narcotic of some sort.

12 Q. Okay. It could have been meth?

13 A. I don't know what it was.

14 MS. MACERONI: Judge, if I could have one minute?

15 (Brief pause.)

16 MS. MACERONI: Thank you. I don't have anything else.

17 THE COURT: Other cross-examination? None?

18 Ms. Mohsin, do you have any redirect for the witness?

19 MS. MOHSIN: Thank you, your Honor.

20 REDIRECT EXAMINATION

21 BY MS. MOHSIN:

22 Q. What is your understanding of the standard for obtaining a  
23 wiretap; is it suspicion or some other standard?

24 A. The affidavit has to establish probable cause, and of  
25 course, suspicion would be included in that, but the standard

1      itself is higher.

2      Q. It's higher than suspicion.

3      A. Correct.

4      Q. Is that correct? Okay.

5            MS. MOHSIN: Nothing further. Thank you, your Honor.

6            THE COURT: All right. The witness may step down.

7            THE WITNESS: Thank you.

8            (Witness excused at 2:29 p.m.)

9            THE COURT: And no need to reserve or recall,  
10 particularly? Not, Ms. Maceroni, for example?

11            MS. MACERONI: No. No, your Honor.

12            THE COURT: All right.

13            And your next witness will be whom?

14            MS. MOHSIN: The Government's next witness is John  
15 Pizzuti, and I know that he is on his way. An agent has gone  
16 to get him.

17            THE COURT: Why don't you -- around the corner on this  
18 floor?

19            MS. MOHSIN: Yes.

20            THE COURT: Okay. We'll just wait, then. Thank you.

21            (Brief pause.)

22            MS. MOHSIN: Your Honor, the Government calls John  
23 Pizzuti.

24            THE COURT: All right.

25            (Witness is sworn.)

1                   THE COURT: All right, sir. Have a seat up here in  
2 this chair.

3                   Go ahead.

4                   MS. MOHSIN: Thank you.

5                   JOHN PIZZUTI

6                   called as a witness at 2:31 p.m. testified as follows:

7                   DIRECT EXAMINATION

8 BY MS. MOHSIN:

9 Q. Good afternoon.

10 A. Hello.

11 Q. Can you try to keep your voice up?

12                  Please state your full name and spell your last name  
13 for the jury.

14 A. John Pizzuti. P-I-Z-Z-U-T-I.

15 Q. Mr. Pizzuti, how old are you?

16 A. Forty-four.

17 Q. And what's the highest level of education that you've  
18 achieved?

19 A. Twelfth grade.

20 Q. When did you graduate 12th grade?

21 A. '88. 1988.

22 Q. Are you employed, sir?

23 A. Yes.

24 Q. By whom are you employed?

25 A. JP Asphalt.

1 Q. And when you say JP Asphalt, is that a company?

2 A. Yes.

3 Q. What type of work is it?

4 A. Pave parking lots, asphalt parking lots.

5 Q. And how long have you been employed by that company?

6 A. Twenty years.

7 Q. Is that a family business?

8 A. Yes.

9 Q. Do you also have any skills with respect to the maintenance  
10 or repair of motorcycles?

11 A. Yes, I do.

12 Q. Can you tell the jury a little bit about that?

13 A. Exactly what?

14 Q. Do you have training, do you have experience in repairing  
15 motorcycles?

16 A. Yes, I do.

17 Q. And how about in building motorcycles?

18 A. In building motorcycles? Yes.

19 Q. How long have you had that sort of skill?

20 A. Roughly '99, 1999.

21 Q. Mr. Pizzuti, I want to ask you some questions regarding  
22 your health. Do you currently suffer from or have you recently  
23 suffered from a serious health problem?

24 A. Yes.

25 Q. Can you tell the jury a little bit about what your health

1 problem is, when you were diagnosed and about the treatment?

2 A. I had bone, bone and lung cancer.

3 Q. And how serious was your bone and lung cancer?

4 A. It was Stage 4.

5 Q. When were you diagnosed with this, this disease?

6 A. February 20th.

7 Q. February 20th of what year?

8 A. 2012.

9 Q. Okay. Now, prior to testifying here today, did you have to  
10 look at any records related to when your treatment was, so that  
11 you can testify here today about your treatment?

12 A. Yes, I did. I had to write it down.

13 Q. Okay. So is that what you have in your hand?

14 A. Yes.

15 Q. What is it that you looked at before you came to testify,  
16 what types of records?

17 A. The records from all my -- from the hospital.

18 Q. Okay. So do you actually recall the dates that you were in  
19 the hospital?

20 A. No. I don't remember them, no.

21 Q. Okay. So prior to coming here today, you made notes?

22 A. Yes.

23 Q. And those notes were about what specifically? What type of  
24 notes are they?

25 A. Just notes in what, what therapies, what chemotherapy, what

1      day, what hospital I was in, and how long, and what treatment.

2 Q. Okay. So you were diagnosed in 2012; is that accurate?

3 | A. Yes.

4 || Q. And that's based on your notes?

5 | A. Yes.

6 Q. What type of treatment did you receive?

7 A. I received chemotherapy on July 31st, 2012. It was a week,  
8 it was once a week, I had to go and sit for five hours and get  
9 chemo. And I had to do that two times.

10 Q. And did you do that two times, meaning once a week, two  
11 times or --

12 A. I had to do it once a week for a month, but I had to do it  
13 twice. So I had to do it for two months.

14 Q. Okay. And after the chemotherapy, did you have radiation?

15 A. Yes. I had radiation.

16 MR. SATAWA: Objection, your Honor. 401, 402 and 403.

17 MS. MOHSIN: Your Honor, the Government is trying to  
18 lay a foundation, as we discussed earlier.

19 THE COURT: The Government provided a bench brief on  
20 this and I presume circulated it to counsel.

21 MS. MOHSIN: We did.

22 THE COURT: Overruled for the reasons explained in the  
23 bench brief.

24 BY MS. MOHSIN:

25 Q. Did you receive radiation?

1 A. Yes.

2 Q. Can you tell the jury about that?

3 A. It was 8 to 10 times, once a week.

4 Q. And did you also receive or were you a participant in a  
5 program at the hospital, called an ICE program?

6 A. Yes.

7 Q. What was that?

8 A. It was, I was there for three to four days and it was  
9 chemotherapy 24 hours.

10 Q. Over those days, the three or four days?

11 A. Yes.

12 Q. And then finally, did you receive a bone marrow transplant?

13 A. Yes.

14 Q. Can you tell the jury about that?

15 A. I was there for a month, where they had to take my stem  
16 cells. And they took those out and they did, they did  
17 something to them that -- they did something to them and then  
18 when they put them back in, it cured my bone cancer.

19 Q. So --

20 A. Put it in remission.

21 Q. It put it in remission. And so how long have you been in  
22 remission?

23 A. Since, since 2000 -- since May 16th till now.

24 Q. And would that have been May 16th of this year?

25 A. Yes.

1 Q. So 2014?

2 A. Yeah.

3 Q. Now, the treatments that you've described, generally, have  
4 they had an effect on you, as far as your ability to focus?

5 A. Yes.

6 Q. Tell the jury about that.

7 A. I can't remember days and dates and times. Just have a  
8 hard time remembering.

9 Q. Okay. And do you have, do you have other -- are there  
10 other issues, in other words, regarding your ability to  
11 concentrate for long periods of time?

12 A. Yeah. I can't -- I just can't concentrate on anything  
13 for --

14 Q. Prior to your testimony here today, had you had an  
15 opportunity to meet with prosecutors, myself?

16 A. Yes.

17 Q. Okay. And have you met with the Government to prepare for  
18 your testimony here today?

19 A. Yes.

20 Q. So to the extent that you don't recall something, and  
21 something might refresh your memory, did you receive  
22 instructions about that?

23 A. Yes.

24 Q. Okay. I want to direct your attention now to the Devils  
25 Diciples Motorcycle Club. Do you recall being -- whether you

1      were ever a member of that organization?

2      A. Yes.

3      Q. Tell the jury when you became a member, and how you became  
4      a member.

5      A. I was -- I became a member in 1999. They approached me and  
6      asked me to become a member.

7      Q. When you say "they," who are you referring to?

8      A. Fat Dog, Pauli, Mike, bunch of guys.

9      Q. Fat Dog, do you know his real name?

10     A. No. No, I can't remember.

11     Q. And how about, did you know it at some time?

12     A. Yeah, at some time I did.

13     Q. But as you sit here today, do you recall his real name?

14     A. No.

15     Q. Pauli?

16     A. Yes.

17     Q. Do you know his real name?

18     A. Yeah.

19     Q. What is it?

20     A. Paul Darrah.

21     Q. And who else? You said Mike?

22     A. Mike.

23     Q. Do you remember his real name or club name?

24     A. No. Palazzola.

25     Q. Okay. And were these three individuals members of the

1      Devils Diciples Motorcycle Club when they invited you to join?

2      A. Mike wasn't.

3      Q. But Fat Dog and Pauli were?

4      A. You know, I might have made a mistake on that.

5                  Can we back -- the people that invited me to -- okay.

6      Mike, Mike and Snot was the ones that invited me to sit down at  
7      the house, to be, to be introduced to Pauli and Fat Dog to  
8      join.

9      Q. Now, when you say Mike and Snot, were they members of the  
10     Devils Diciples Motorcycle Club?

11     A. Snot was.

12     Q. Snot was. Do you know his real name?

13     A. No.

14     Q. And they invited you to sit down. Where did they invite  
15     you to sit down?

16     A. At Mike's house.

17     Q. And this would be Mike Palazzola?

18     A. Yes.

19     Q. At that point, did you meet anyone, such as the individuals  
20     you referenced earlier --

21     A. Yes.

22     Q. -- Fat Dog or Pauli? Yes?

23                  And what was the purpose of meeting with them?

24     A. I guess so they could check us -- check me out, see if they  
25     wanted me to join their club.

1 Q. And did you receive an offer to join the club?

2 A. Yes.

3 Q. Who gave you that offer?

4 A. Everybody in the room.

5 Q. All right. So no one in particular?

6 A. Not really.

7 Q. Did you receive colors at that time?

8 A. No. We received a T-shirt.

9 Q. Okay. Now, when you say "we," were other members also --  
10 or were there other people who were also offered membership at  
11 the same time?

12 A. Yes.

13 Q. And was Mike Palazzola one of them?

14 A. Yes.

15 Q. And were there others?

16 A. Yes.

17 Q. Do you remember any of them?

18 A. I think Big Larry, I think was there. Uhm, I'm having a  
19 hard time.

20 Q. Okay. You're having a hard time.

21               Okay. So what was the purpose of inviting all of you  
22 to become members at the same time?

23 A. You had to have so many people to start a new chapter.

24 Q. Were they intending to start a new chapter?

25 A. Yes.

1 Q. Was that going to be a chapter in Michigan?

2 A. Yes.

3 Q. What was the name of that chapter?

4 A. Mount -- Utica.

5 Q. So the Devils Diciples wanted to open a new chapter in  
6 Utica, Michigan; is that a fair statement?

7 A. Yes.

8 Q. And you and others were invited to become members?

9 A. Yes.

10 Q. And for the purpose of opening that chapter?

11 A. Yes.

12 Q. Where was the chapter located, was there a clubhouse?

13 A. No.

14 Q. Where were you going to be operating out of?

15 A. We operated out of whoever's house at the time was  
16 available.

17 Q. And did you ever operate out of your place?

18 A. Yes.

19 Q. And where was that?

20 A. On Schoenherr, in between 23 and 24 Mile.

21 Q. Now, at the time that you became a member -- and I should  
22 ask, had you been a member of any other motorcycle club before  
23 you were offered a position in the Devils Diciples?

24 A. No.

25 Q. Were you asked to prospect or become a probationary member

1 at any time?

2 A. No.

3 Q. Were you presented with any bylaws regarding the way that  
4 the organization functioned?

5 A. I was shown a set of bylaws.

6 Q. And who showed them to you; do you recall?

7 A. No.

8 Q. Who gave you the colors that you ultimately received?

9 A. Pauli, I think.

10 Q. Okay. Now, did you have to pay dues?

11 A. Yes.

12 Q. How much did you pay in dues?

13 A. I think it was \$20 a week.

14 Q. Does the number "44" mean anything to you?

15 A. Yes.

16 Q. What does it mean?

17 A. Devils Diciple.

18 Q. So if you see the number 44, that means it refers to the  
19 Devils Diciples?

20 A. Yes.

21 Q. Now, there's been some talk about the word, church, people  
22 going to church, people attending church. What does that word  
23 mean to you?

24 A. Meetings.

25 Q. So when someone says that they -- and they are in a

1      motorcycle club, and they say they have to go to church, they  
2      are not talking about a religious establishment?

3      A.    No.

4      Q.    Is that correct?   No?

5      A.    Correct.

6      Q.    What type of meetings are church meetings?

7      A.    Meetings to discuss future, future runs or future parties.

8      Q.    Are these meetings run by members of the Devils Diciples?

9      A.    Yes.

10     Q.    Are members of the public invited to these church meetings?

11     A.    No.

12     Q.    Are -- who can go to a church meeting?

13     A.    Just, just club representatives.

14     Q.    So they have to be members of, of the --

15     A.    Yes.

16     Q.    -- chapter or the club?

17     A.    Yup.

18     Q.    How about women?

19     A.    No.

20     Q.    Women are not permitted at these meetings?

21     A.    No.

22     Q.    When you joined the Devils Diciples Motorcycle Club, who  
23       was the national president?

24     A.    Fat Dog.

25     Q.    And was there a national vice president at that time?

1 A. Yeah.

2 Q. Who was that?

3 A. Spike.

4 Q. Did you know Spike's real name?

5 A. No.

6 Q. And did Pauli hold a position in the organization at the  
7 time?

8 A. Yes. I thought, I thought he was the -- what was the  
9 second thing? The vice, I thought he was vice president.

10 Q. Okay. What about Gun Control? Did you know an individual  
11 by the name of Gun Control?

12 A. Yes.

13 Q. And what was -- what did you know about him at that time  
14 when you joined?

15 A. What did I know about him?

16 Q. Was he a member of the national leadership?

17 A. Not, not that I know of.

18 Q. Okay. Now, do you know those four individuals that I've  
19 just described to you? Can you identify them in the courtroom  
20 here today by where they are in the courtroom, if you see them?

21 A. Yes.

22 Q. Do you see Paul Darrah?

23 A. Yes.

24 Q. Can you identify where he is?

25 A. Sitting over there.

1 MS. MOHSIN: All right. Identifying the defendant,  
2 for the record.

3 BY MS. MOHSIN:

4 Q. Do you see Jeff Smith?

5 A. Yes.

6 Q. What is he wearing?

7 A. White sweater.

8 MS. MOHSIN: Okay. Identifying the defendant.

9 BY MS. MOHSIN:

10 Q. Do you see Gun Control?

11 A. Yes.

12 Q. Can you identify him for the record?

13 A. Black sweater.

14 MS. MOHSIN: Identifying the defendant, your Honor.

15 BY MS. MOHSIN:

16 Q. Now, did there come a time where you became a member of the  
17 management, so to speak, of the Utica chapter? Did you rise in  
18 the leadership?

19 A. Yeah. I was vice president.

20 Q. Okay. And when you are a member of the motorcycle club,  
21 the Devils Disciples, are you required to attend certain events?

22 A. Yes.

23 Q. Like runs?

24 A. Yes.

25 Q. Can you tell the jury a little bit about what you're

1 required to attend?

2 A. We're required to attend church and certain parties.

3 Q. Okay. In your years as a Devils Diciple -- withdrawn.

4 You indicated that you joined in about 1999; is that  
5 correct?

6 A. Yes.

7 Q. Did you remain a member for a number of years?

8 A. Yes.

9 Q. Eventually, you were arrested in connection with a crime;  
10 is that accurate?

11 A. Yes.

12 Q. Were you a member when you were arrested?

13 A. Yes.

14 Q. Was that in 2007?

15 A. Yes.

16 Q. Okay. Or 2006? Do you remember when it was?

17 A. No.

18 Q. Okay. But would it be fair to say that you were, when you  
19 were arrested, you were still a member of the Devils Diciples?

20 A. Yes, I was.

21 Q. During the years that you were a member of the Devils  
22 Diciples, did you have occasion to travel to other clubhouses?

23 A. Yes.

24 Q. Did you travel to other clubhouses in Michigan?

25 A. Yes.

1 Q. How about in other states? In Alabama?

2 A. Yes.

3 Q. Arizona?

4 A. Yes.

5 Q. California?

6 A. Yes.

7 Q. And perhaps elsewhere?

8 A. Where?

9 Q. And maybe other places, as well, or is that it?

10 A. Other places, probably.

11 Q. Did you attend any national runs?

12 A. Yes.

13 Q. What is a national run?

14 A. It's an event where everybody in the state shows up, in the  
15 country.

16 Q. And what's the point of having a national run?

17 A. So we all get together.

18 Q. Okay. Is business discussed during these national runs?

19 A. I was never -- I was never there, discussed any business.

20 Q. So when there's a national run, are there meetings that  
21 take place with some members, but not others?

22 A. Yes.

23 Q. And the meetings that take place with some members, what  
24 type of members are part of those meetings?

25 A. Presidents.

1 Q. So leadership?

2 A. Yeah.

3 Q. And you were not a leader at the time?

4 A. Well, I wasn't, I wasn't in none of those meetings.

5 Q. So you were not invited to those meetings or you didn't  
6 attend them?

7 A. I just didn't attend them.

8 Q. Okay. Now, I want to direct your attention to some  
9 photographs. I'm going to show them to you and ask you if you  
10 recognize any of the individuals. Okay?

11 A. Okay.

12 MS. STOUT: Ms. Mohsin, what numbers do you have?

13 MS. MOHSIN: Just a moment.

14 (Brief pause.)

15 BY MS. MOHSIN:

16 Q. I'm going to show you what has been previously marked as  
17 proposed Exhibits 13-91, 13-93, 14-11, 14-33, 14-14, 14-15,  
18 14-16, 15-8, and 18-61.

19 I'm going to direct your attention first to 13-91,  
20 proposed exhibit. Do you recognize the individuals depicted in  
21 that photograph?

22 A. It's Spike and Polack.

23 MS. MOHSIN: Okay. The Government offers 13-91 in  
24 evidence.

25 MR. SABBOTA: No objection.

1                   THE COURT: Without objection, received.

2                   (Exhibit 13-91 received 2:50 p.m.)

3                   MS. MOHSIN: I'm going to publish it to the jury.

4 BY MS. MOHSIN:

5 Q. Could you tell the jury which individual is Spike and which  
6 individual is Polack?

7 A. Spike is the one on the left.

8 Q. Okay. And so Polack is the one on the right?

9 A. The right, yes.

10 Q. Now, you testified a little while ago that Spike was the  
11 national vice president --

12 A. Yeah.

13 Q. -- when you joined the club?

14 A. Yeah.

15 Q. Do you know where these two members are today?

16 A. They are dead.

17 Q. Both of them are deceased?

18 A. Yes.

19 Q. Okay. Directing your attention to 13-93, would you look  
20 at that proposed exhibit and tell me if you recognize the  
21 individuals depicted?

22 A. Cliff, Snot, and Mike.

23                   MS. MOHSIN: The Government offers 13-93.

24                   THE COURT: Without objection, it is received.

25                   (Exhibit 13-93 received 2:51 p.m.)

1 MS. MOHSIN: Would you please publish 13-93?

2 BY MS. MOHSIN:

3 Q. Can you please tell the jury who is depicted in this photo?

4 A. Cliff. Cliff, Snot, and Mike.

5 Q. So beginning on the left side?

6 A. Would be Cliff, Snot in the middle, Mike on the right.

7 Q. Okay. Now, is this what the members looked like when you  
8 were a member in the late '90s, early 2000s?

9 A. Yes.

10 Q. Okay. Can you take a look at 14-11? Do you recognize  
11 anyone in that photo?

12 A. Mike.

13 MS. MOHSIN: All right. The Government moves to admit  
14 proposed Exhibit 14-11.

15 THE COURT: Without objection, it is received.

16 (Exhibit 14-11 received 2:51 p.m.)

17 MS. MOHSIN: Publish 14-11, please.

18 BY MS. MOHSIN:

19 Q. Can you tell the jury who is depicted in that photo?

20 A. Which one are we on?

21 Q. This is 14-11.

22 A. Mike on the right.

23 Q. On the right-hand side?

24 A. Yeah.

25 Q. Is that Mike Palazzola who you have previously identified?

1      A. Yes.

2      Q. Okay. 14-13, proposed Exhibit, could you look at that one,  
3      please?

4      A. It's myself and Big Larry.

5                MS. MOHSIN: All right. Government moves to admit  
6      14-13.

7                THE COURT: Received without objection.

8                (Exhibit 14-13 received 2:52 p.m.)

9                MS. MOHSIN: Please publish 14-13.

10        BY MS. MOHSIN:

11        Q. And who is in that photo?

12        A. Myself and Big Larry.

13        Q. Okay. 14-14, proposed Exhibit.

14        A. It's Snot in the background. I can't remember the other  
15      guy's name.

16                MS. MOHSIN: Okay. The Government moves to admit that  
17      exhibit and would like to publish it.

18                THE COURT: Received. That's 14-33?

19                MS. MOHSIN: 14-14, your Honor.

20                THE COURT: Received and published.

21                (Exhibit 14-14 received 2:53 p.m.)

22        BY MS. MOHSIN:

23        Q. Now, you indicated that Snot is depicted in this photo?

24        A. Yes. In the background.

25        Q. Is he in the front or the back; in the background?

1      A. In the background.

2      Q. And you don't know who the member is in the front?

3      A. I can't remember his name.

4      Q. Okay. Would you please look at proposed Exhibit 14-15?

5 Yes?

6      A. Sly and Barefoot.

7                MS. MOHSIN: Okay. Government moves to admit and  
8 publish proposed Exhibit 14-15.

9                MS. STOUT: No objection.

10          THE COURT: No objection, and it is received.

11          (Exhibit 14-15 received 2:53 p.m.)

12          MS. MOHSIN: Would you publish that, please?

13          BY MS. MOHSIN:

14          Q. Which one is Sly?

15          A. The one with the back to you.

16          Q. The one whose back is facing the camera?

17          A. Yes.

18          Q. And can you identify Barefoot?

19          A. The one on the right.

20          Q. And is that the individual that's immediately to the right  
21 of Sly?

22          A. Yes.

23          Q. And these are all members of the Devils Diciples?

24          A. Yes.

25          Q. By the way, where is the location where this photograph is

1   || taken; do you recognize it?

2   A. That's my shop.

3   Q. Is this a church meeting or some other meeting that's  
4 taking place?

5   A. It might be.

6   Q. Okay. Directing your attention to 15-8.

7   A. 15 what?

8   Q. 15-8.

9   A. Oh, okay. It's Snot on the left, then Pauli, and then  
10 Spike, Billy Wadd, and Sly.

11                 MS. MOHSIN: Government moves to admit 15-8 and asks  
12 to publish.

13                 THE COURT: There are no objections received, and go  
14 ahead.

15                 (Exhibit 15-8 received 2:54 p.m.)

16         BY MS. MOHSIN:

17   Q. So Snot is on the left, you indicated?

18   A. Yes.

19   Q. And next to him?

20   A. Pauli.

21   Q. And that's Paul Darrah?

22   A. Yes.

23   Q. Next to him?

24   A. Spike.

25   Q. Then next to him?

1      A. Then Billy Wadd, and then Sly.

2      Q. And again, are these all members of the Devils Diciples at  
3      that time?

4      A. Yes.

5      Q. And finally, proposed Exhibit 18-61, would you take a  
6      moment to look at that?

7      A. That's myself on the left, and then Pauli, and then Fat  
8      Dog. I don't know -- I can't remember the other gentleman's  
9      name.

10     Q. Okay.

11     A. And then Gun Control. And the other two, I don't remember.

12                MS. MOHSIN: The Government offers to admit 18-61.

13                THE COURT: Without objection, received.

14                (Exhibit 18-61, received 2:55 p.m.)

15                MS. MOHSIN: Publish, please.

16     BY MS. MOHSIN:

17     Q. Which one is you in that photograph?

18     A. The one that starts on the left.

19     Q. Standing?

20     A. Yes.

21     Q. And then next to you, seated without the shirt?

22     A. It's Pauli.

23     Q. The one next to him without the shirt?

24     A. Fat Dog.

25     Q. And then the one next to Fat Dog?

1      A. I don't remember his name.

2      Q. Keep going.

3      A. And then on the chair here is Gun Control, and then the  
4 other two on the end here, I don't remember their names.

5      Q. Where is this photograph taken?

6      A. Looks like the clubhouse.

7      Q. And do you know which one?

8      A. Looks like it might be Port Huron.

9      Q. Okay. Thank you.

10                 Mr. Pizzuti, do you have, or have you had in the past,  
11 a problem abusing drugs?

12      A. Yes.

13      Q. Could you tell the jury about when you first started using  
14 drugs? How old were you?

15      A. I was in high school.

16      Q. And what type of drugs did you use in high school?

17      A. Cocaine and marijuana.

18      Q. And how frequently did you use cocaine and marijuana when  
19 you were in high school?

20      A. On the weekends.

21      Q. Did you consider it to be a regular habit?

22      A. Just on the weekends.

23      Q. Was it a regular weekend habit?

24      A. I guess, yeah.

25      Q. Did there come a time where you stopped using cocaine?

1 A. No.

2 Q. Did you ever use heroin?

3 A. No.

4 Q. Did you ever go into rehab for any type of heroin use?

5 A. No.

6 Q. Did you ever go into rehab for any type of drug use?

7 A. No.

8 Q. Have you ever used Vicodin --

9 A. Yes.

10 Q. -- without a prescription?

11 A. Yes.

12 Q. Now, did you use Vicodin with a prescription?

13 A. Yes.

14 Q. And did you develop a problem and abuse Vicodin?

15 A. Yes.

16 Q. When did that occur?

17 A. The years of 2000 to 2007.

18 Q. Okay. Do you know that or are you guessing?

19 A. I'm guessing.

20 Q. Okay. And how much Vicodin were you using?

21 A. I was probably taking six pills or more a day.

22 Q. Did you ever use methamphetamine?

23 A. Tried it a few times.

24 Q. Okay. And did you ever develop a regular use of  
25 methamphetamine?

1 A. No.

2 Q. When you say that you tried it a few times, was it more  
3 than twice, more than four times, more than six times? Can you  
4 give the jury an idea?

5 A. Probably more than four times, maybe.

6 Q. Okay. Do you remember when the first time was that you  
7 tried methamphetamine?

8 A. No.

9 Q. Did you try methamphetamine before you became a member of  
10 the Devils Diciples?

11 A. No.

12 Q. So the first time that you used methamphetamine, was that  
13 after you were a patched member of the Devils Diciples?

14 A. Yes.

15 Q. Do you remember where you got that methamphetamine from?

16 A. No.

17 Q. Do you remember any of the circumstances around where you  
18 were when you first used it?

19 A. I was probably at the clubhouse, at a party.

20 Q. When you say probably, why do you say probably?

21 A. Because it was probably during a party.

22 Q. Was -- had you attended a lot of parties at, at the  
23 clubhouse?

24 A. Yes.

25 Q. Now, what clubhouse are we talking about here?

1 A. Mount Clemens.

2 Q. Mount Clemens' clubhouse?

3 A. Yes.

4 Q. Did they have frequent parties there?

5 A. Yes.

6 Q. How often?

7 A. Every other week.

8 Q. And did you attend many of these parties?

9 A. Yes, I did.

10 Q. Was there meth available for use at these parties?

11 A. I would imagine there was, yeah.

12 Q. Did you ever obtain any meth at any of these parties for  
13 use?

14 A. A few times.

15 Q. Who did you get it from?

16 A. Iron Mike, one time.

17 Q. Okay. Do you remember any of the other times?

18 A. No, I don't.

19 Q. Was meth ever put out on display for people to use?

20 A. No.

21 Q. Okay. Did you ever see meth in the basement of the  
22 clubhouse?

23 A. Yes.

24 Q. Okay. And how, how did you see it? In other words, was it  
25 hidden or was it --

1 A. People were doing it.

2 Q. People were using it?

3 A. Yeah.

4 Q. Okay. Now, I want to direct your attention to 2004. Were  
5 you a member of the Devils Diciples in 2004?

6 A. Yes.

7 Q. Did you have a relationship with an individual by the name  
8 of Vern Rich at that time?

9 A. Who?

10 Q. Vern Rich. Vern.

11 A. Yes.

12 Q. Did you know a man named Vern to be a member of the Devils  
13 Diciples?

14 A. Yes.

15 Q. And did you obtain marijuana from Vern Rich --

16 A. Yes, I --

17 Q. -- during that time?

18 A. Yes, I did.

19 Q. What type of quantities of marijuana did you get from Vern?

20 A. I was getting pounds at a time.

21 Q. And what were you doing with the marijuana that you got  
22 from Vern Rich?

23 A. I was selling it.

24 Q. And do you remember how much you were selling it for?

25 A. No, I don't remember.

1    Q. Okay. Now, in 2004, did your house, your residence, get  
2    searched by law enforcement?

3    A. Yes.

4    Q. And were the officers or agents who searched your home at  
5    that time members of the FBI or ATF or some other agency?

6    A. Both, I believe. FBI.

7    Q. Okay. Did you have possession of any firearms during that  
8    time?

9    A. Yes.

10   Q. Were you permitted to possess firearms? In other words,  
11   did you have a legal right to possess firearms at the time?

12   A. Yes.

13   Q. Did you possess a silencer at the time?

14   A. Yes, I did.

15   Q. And was that silencer unregistered?

16   A. Yes.

17   Q. Did that unregistered silencer lead to a charge against  
18   you?

19   A. Yes.

20   Q. Now, you had some other firearms in your home -- excuse me.

21                  You had several firearms in your home at the time; is  
22   that a fair statement?

23   A. Yes.

24   Q. Was one of the firearms that you had in your home a Ruger  
25   .22 caliber?

1 A. Yes.

2 Q. Where did you get that?

3 A. From one of the club members.

4 Q. Okay. One of the members of the Devils Diciples?

5 A. Yes.

6 Q. Do you remember who that person was?

7 A. Little Dog, I think.

8 Q. Okay. Where is Little Dog today?

9 A. He's, he's dead.

10 Q. Pardon?

11 A. He's dead.

12 Q. He's dead? And Little Dog provided you with a firearm?

13 A. Yes.

14 Q. And where did you get the silencer?

15 A. It was on the firearm.

16 Q. At the time that you were arrested, or rather, that your  
17 house was searched, did agents ask you any questions about this  
18 firearm?

19 A. Yes.

20 Q. And did they ask you those questions after reading you your  
21 rights?

22 A. Yes.

23 Q. Your right to remain silent?

24 A. Yes.

25 Q. And so forth? Yes?

1 A. Yes.

2 Q. And did you provide a statement about whether or not the  
3 firearm and silencer that you possessed belonged to you?

4 A. Yes.

5 Q. Did you provide a statement? Yes?

6 A. Yes.

7 Q. Was it a written statement or did you say it out loud?

8 A. It was a written statement.

9 Q. Now, prior to testifying here today, did you look at that  
10 statement?

11 A. Yes.

12 Q. And as you read that statement, is it a truthful statement  
13 or was it a false statement?

14 A. It was a false statement.

15 Q. How was it false?

16 A. I lied.

17 Q. And what did you lie about, specifically? What did you  
18 tell them and what was the lie?

19 A. I lied about where I got the gun.

20 Q. What did you say -- where did you say you got the gun?

21 A. I got it in the city.

22 Q. And in fact, that was not true?

23 A. Yes.

24 Q. And when you told them that, it was not true, you knew  
25 that?

1 A. Yes.

2 Q. Because, in fact, you got it from somebody else?

3 A. Yes.

4 Q. Who did you get it from?

5 A. From Little Dog.

6 Q. Okay. In addition, did you tell law enforcement in  
7 February of 2004 that you had never fired or used the firearm?

8 A. Yes.

9 Q. Was that an accurate statement?

10 A. No.

11 Q. What was the truth?

12 A. I did fire the gun.

13 Q. Okay. And under what circumstances?

14 A. Just at target.

15 Q. At a target?

16 A. Yeah.

17 Q. Not at a person?

18 A. No.

19 Q. Now, eventually, the firearm silencer that you possessed,  
20 was that the subject of a charge?

21 A. Yes.

22 Q. Were you indicted by a federal grand jury?

23 A. No. Yes. I don't know.

24 Q. Okay. Do you know what an indictment is?

25 A. (No response.)

1 Q. Would something help refresh your memory?

2 A. Yes.

3 Q. If I were to show you an indictment, would that help  
4 refresh your memory?

5 A. Yeah.

6 Q. Do you recognize that document?

7 A. Yes.

8 Q. What is that?

9 A. It's the indictment for the firearm.

10 Q. And so you were charged by that indictment; is that a fair  
11 statement?

12 A. Yes.

13 Q. After you were charged, were you brought to court?

14 A. Yes.

15 Q. And were you told what the penalties were for -- if you  
16 were to be convicted of that offense?

17 A. Yes.

18 Q. What could you --

19 A. Ten years.

20 Q. Ten years?

21 Did there come a time where you were released on bond?

22 A. Yes.

23 Q. Do you remember that?

24 A. Yes.

25 Q. Okay. Now, after you're released on bond, did there come a

1 time where you -- withdrawn.

2 Did you have an attorney?

3 A. Yes.

4 Q. Okay. Did you have communications with the Government  
5 about cooperating?

6 A. Yes.

7 Q. Why did you have those communications?

8 A. About cooperating?

9 Q. Yeah.

10 A. I don't understand.

11 Q. What would be the reason that you would want to cooperate  
12 with the Government?

13 A. So I could get out of trouble.

14 Q. All right. And so you wanted to communicate with the  
15 Government so you could get out of trouble?

16 A. Yes.

17 Q. So what did you do? Did you talk to your attorney?

18 A. Yes.

19 Q. And after you talked to your attorney, did you have a  
20 meeting with the Government?

21 A. Yes, I did.

22 Q. When you had the meeting with the Government, do you  
23 remember when that meeting took place?

24 A. No.

25 Q. Do you remember if you were provided with a letter

1 agreement from the Government?

2 A. No.

3 Q. Would something help refresh your recollection?

4 A. Yes.

5 (Document tendered to the witness.)

6 Q. Does that document help you remember whether or not you  
7 received a letter agreement?

8 A. Yes.

9 Q. Now, have you had an opportunity to review that document  
10 before you testified here today?

11 A. Yes.

12 Q. Do you recall what your -- what that letter agreement or  
13 what the purpose of that letter agreement was?

14 A. For, I was to tell truth.

15 Q. And you were to tell the truth about what?

16 A. About everything I know.

17 Q. Okay. And what would happen if you didn't tell the truth?

18 A. I could go to jail.

19 Q. Okay. After you had that letter agreement, did you have a  
20 meeting with the prosecutors in the case?

21 A. Yes.

22 Q. And did you have a meeting with the FBI?

23 A. Yes.

24 Q. And what was the purpose of that meeting; do you remember?

25 A. To, to help them.

1      Q. All right. To help them about -- with what?

2      A. To help them buy drugs.

3      Q. Okay. So was your understanding that the purpose of the  
4 meeting was to help buy drugs or do other things? Could it --  
5 did it involve other things?

6      A. Yes. To record conversations.

7      Q. All right. Now, was that something that came up  
8 immediately or did that come up at a later time; the recording  
9 conversations and buying drugs?

10                  Do you understand the question?

11      A. Not really.

12      Q. All right. The first time you met with the Government, the  
13 very first time, did that come up during the first  
14 conversation?

15      A. No.

16      Q. Okay. Did it come up in a later conversation?

17      A. Yes.

18      Q. Okay. Now, when you had this meeting with the Government,  
19 did -- were you asked questions?

20      A. Yes.

21      Q. Pardon?

22      A. Yes.

23      Q. Were you asked questions?

24      A. Yes.

25      Q. Yes? Okay.

1           And did you, at some point, have a relationship with  
2 one of the agents that were from the FBI?

3 A. Yes.

4 Q. Do you remember who that agent was?

5 A. Dave.

6 Q. Dave? You just pointed. Is he in the courtroom?

7 A. Dave Opperman.

8 Q. All right. And what was your relationship with him? Were  
9 you supposed to have regular communications with him?

10 A. Yes.

11 Q. What type of communications were expected? What were you  
12 supposed to do?

13 A. Tell him the truth about what I -- what was being done,  
14 what was happening.

15 Q. So did you continue to be a member of the Devils Diciples  
16 after you agreed to cooperate?

17 A. Yes.

18 Q. And did you agree to act in somewhat of an undercover  
19 capacity?

20 A. Yes.

21 Q. So after you began cooperating, did there come a time where  
22 your attorney and you negotiated an agreement with the  
23 Government to allow you to continue your cooperation?

24 A. Yes.

25 Q. And as part of that agreement, was there any discussion

1      about dismissing the silencer possession based indictment? In  
2 other words, did the Government say, we're going to dismiss  
3 that indictment against you?

4 A. Yes.

5 Q. Now, you entered into a written agreement with the  
6 Government, is that -- do you remember that?

7 A. Yes.

8 Q. And have you had an opportunity to look at that before you  
9 testified here today?

10 A. Yes.

11 Q. What was your understanding about your agreement with the  
12 Government?

13 A. My understanding was that I was, I was to work with them,  
14 and I wasn't promised anything as far as getting off on the --  
15 of the case against me.

16 Q. So you were told that -- you were told that the indictment  
17 would be dismissed; is that right?

18 A. Yes.

19 Q. Were you told whether that indictment could be brought  
20 back; in other words, that you could be charged again?

21 A. Yes.

22 Q. And were you told that -- did you agree to toll the statute  
23 of limitations? Have you ever heard that phrase?

24 A. Yes.

25 Q. What does that mean?

1      A. That the statute of limitations, the crime that I committed  
2 would be held -- I can't remember.

3      Q. Okay. Would something help you refresh your memory?

4      A. Yes.

5      Q. All right. Would the agreement help?

6      A. Yes.

7      Q. I want to direct your attention to page 5 of 6, paragraph  
8 3.

9                 THE COURT: While he reads that, let's take a  
10 60-second stretch break.

11                 (Brief pause.)

12                 THE COURT: Quick poll of the jury: Should I do this  
13 more often? It's about once per hour, I've been doing. No,  
14 we're still standing.

15                 Think, chat about this, you. You tell me later if I  
16 should do this maybe more often, every 30 minutes instead of  
17 every 60, for example.

18                 JUROR NO. 5: Yes. Yes.

19                 (Brief pause.)

20                 THE COURT: Let's come back to order. Thank you.

21                 Ms. Mohsin, go ahead.

22                 MS. MOHSIN: Thank you, your Honor.

23                 BY MS. MOHSIN:

24      Q. Mr. Pizzuti, did you have an understanding of what it meant  
25 to toll or stop the statute of limitations?

1 A. Yes.

2 Q. What's your understanding?

3 A. (No response.)

4 Q. In other words, could the charges be brought back to you --

5 A. Yes.

6 Q. -- at any time?

7 A. Yes.

8 Q. Okay. To date, have those charges been brought back?

9 A. No.

10 Q. Now, at the time that you entered into that agreement, you  
11 did not know what the Government would finally do; is that an  
12 accurate statement?

13 A. Yes.

14 Q. Okay. You indicated a little while ago that at some point  
15 you had discussions about making recorded calls and also buying  
16 drugs; is that a fair statement?

17 A. Yes.

18 Q. And did that happen? Did you make recorded calls?

19 A. Yes, I did.

20 Q. Did you buy drugs?

21 A. Yes, I did.

22 Q. I want to direct your attention to -- and you may not, may  
23 or may not know the dates -- May 15th of 2007. Sometime after  
24 you agreed to cooperate, did you make a recorded call on that  
25 date?

1 A. Yes.

2 Q. Now, before coming here to testify, did you have a chance  
3 to look at some of the transcripts of recordings that you  
4 participated in?

5 A. Yes.

6 Q. Have you listened to any of the audiotaped recordings?

7 A. Yes.

8 Q. When did you listen to them?

9 A. That was a while ago.

10 Q. Okay. But not recently?

11 A. No.

12 Q. Okay. But you did look at those transcripts?

13 A. Yes.

14 Q. Okay. I want to direct your attention to the procedure  
15 that you had when you were going to be making a recording.

16 Okay?

17 When, when you agreed that you would make a recording,  
18 what was your understanding of how the procedure would work?  
19 Would you pick up a recording device and put it on your person  
20 and go talk to someone in a meeting or something along those  
21 lines?

22 A. No. I would meet Dave in a parking lot and he would turn  
23 on the recorder. He would search my motorcycle. He would  
24 search my person.

25 Q. Okay. And what was your understanding about why he was

1      doing that?

2      A. So I didn't have anything illegal on me.

3      Q. And when you say that he would turn on the recorder, was  
4      that something that you knew how to do?

5      A. No.

6      Q. And did you ever turn on or off any recorder that he gave  
7      you to use during a recording?

8      A. No.

9      Q. Okay. So I want to direct your attention now to May the  
10     15th. Did you, did you go on a car ride with some individuals  
11     for some sort of a funeral around that time?

12     A. Yes.

13     Q. And did you make a recording of that conversation?

14     A. Yes.

15     Q. Now, was the procedure you just described, where you would  
16     meet with Dave, he would give you a recording device and he  
17     would search you and your vehicle, did that occur?

18     A. Yes.

19     Q. Prior to you having the meeting?

20     A. Yes.

21     Q. And then when he gave you the recorder, and you -- did you  
22     take the recorder from him?

23     A. No.

24     Q. When he gave it to you, did you take it?

25     A. Yes.

1 Q. Did you put it somewhere on your body?

2 A. On my key chain.

3 Q. On your key chain?

4 A. Yeah.

5 Q. And then after that, you would leave? Did you leave Dave's  
6 presence and go to the meeting?

7 A. Yes.

8 Q. During that particular meeting or that particular drive,  
9 did you tamper with that recording device in any way?

10 A. No.

11 Q. Were there any drugs purchased during that particular  
12 meeting?

13 A. Not that I remember.

14 Q. Did you ever purchase drugs with Dave?

15 A. Yes.

16 Q. I want to direct your attention to the first of the drug  
17 purchases that you were involved in. Do you remember the first  
18 of those drug purchases?

19 A. Yes.

20 Q. Okay. Can you tell the members of the jury who you were  
21 going to be trying to buy drugs from?

22 A. Vern.

23 Q. Vern?

24 A. Yes.

25 Q. And when you say Vern, I want to direct your attention to

1       an exhibit.

2                  One moment, please. Would you please publish 63-19?

3                  Would you take a look at the monitor? Do you  
4 recognize this person?

5 A. Yes.

6 Q. Who is that?

7 A. That's Vern.

8 Q. He was a member of the Devils Diciples?

9 A. Yes.

10 Q. Thank you.

11                  Why were you going to be trying to purchase drugs from  
12 him?

13 A. Because he was dealing with meth.

14 Q. And how did you know that?

15 A. Just from hanging around.

16 Q. Hanging around in general or hanging around with the club?

17 A. Hanging around with the club.

18 Q. Was this information that he was dealing drugs what you  
19 would call common knowledge or was it special knowledge?

20 A. No. It was common knowledge.

21 Q. Okay. Now, what was the plan, the first time that you went  
22 to purchase drugs from, from Vern?

23                  What was the plan with law enforcement; in other  
24 words, with Dave?

25 A. Okay. I'd go meet, I'd go meet up with Dave, he would

1 search me, search my motorcycle. He would give me a recording  
2 device. He would give me the money. Then I would go to the  
3 clubhouse and buy the drugs.

4 Q. Now, you mentioned the clubhouse. Which clubhouse?

5 A. Mount Clemens.

6 Q. Was there some special reason why you were going to go to  
7 the clubhouse on this particular day?

8 A. Yes. We were having a party.

9 Q. And do you remember what kind of party it was?

10 A. It was called a steak fry.

11 Q. So on this particular day, there was a steak fry. Was that  
12 an annual event, every year they had a steak fry?

13 A. Yes.

14 Q. So when you went to meet with Dave, how much money did he  
15 give you for the purpose of buying drugs from Vern?

16 A. Five hundred.

17 Q. Five hundred dollars? And did he give you any additional  
18 money?

19 A. Yes. He gave me 100 to play slot machines.

20 Q. Why did he give you 100 to play slot machines; do you know?  
21 What did he ask you to do with the \$100?

22 A. To play slot machines.

23 Q. So if -- did you, did you know that there were slot  
24 machines in the clubhouse?

25 A. Yes.

1 Q. All right. And so he asked you to do that?

2 A. Yes.

3 Q. Did you do that? Did you play the slot machines that were  
4 in the clubhouse when you --

5 A. Yes.

6 Q. -- when you got that \$100?

7 How many slot machines were in the clubhouse?

8 A. Five, six.

9 Q. And of those machines, how many did you play?

10 A. Couple.

11 Q. Okay. Did you use all of the money that was given to you  
12 to play the slot machines?

13 A. Yes.

14 Q. And did you report that back to Dave when you were done?

15 A. Yes.

16 Q. I want to direct your attention now to the \$500 that you  
17 were provided for the purpose of buying drugs. What did you do  
18 after you got the recording device and the \$500 from Dave?

19 A. I went to the clubhouse.

20 Q. And when you arrived at the clubhouse, did you seek out  
21 anyone?

22 A. Yes. Gun Control.

23 Q. Okay. Why did you seek out Gun Control?

24 A. Because I was supposed to give Gun Control the money and  
25 then Gun Control was supposed to give me the dope.

1    Q. And how did you know that you were supposed to give Gun  
2    Control the money, and he was supposed to give you dope?

3    A. Because I spoke with Vern earlier.

4    Q. All right. And did you speak to him before the party,  
5    after the party, or during the party?

6    A. Before the party.

7    Q. And what did he tell you?

8    A. Told me to see Gun Control.

9    Q. Al right. And where were you when you had this  
10   conversation with Vern?

11   A. I was in the driveway, in front of the clubhouse.

12                Oh, with Vern?

13   Q. Yes.

14   A. We were in the clubhouse.

15   Q. You were inside of the clubhouse? Once again, this is the  
16   Mount Clemens clubhouse?

17   A. Yes.

18   Q. And when this party was taking place, and when these  
19   conversations were taking place, were there a lot of people  
20   there?

21   A. Yes.

22   Q. Okay. After you had the conversation with Vern, did you  
23   seek out Gun Control?

24   A. Yes.

25   Q. And did you find him?

1 A. Yes.

2 Q. What happened when you found him?

3 A. I gave, gave him the \$500 and he slipped me the drugs.

4 Q. Can you describe for the jury how you gave it to him; in  
5 other words, was it out in the open, did you count the money,  
6 or how?

7 A. No. I gave it to him in a closed fist. He grabbed it.

8 Q. So you just described for the record that your hand was  
9 extended?

10 A. Yes.

11 Q. And in a closed fist?

12 A. Yes.

13 Q. And Gun Control grabbed it from you, from the closed fist?

14 A. Yes.

15 Q. So if someone were to pass by, would they have seen this  
16 transaction?

17 A. No.

18 Q. To the best of your ability, you don't think they would  
19 have seen this?

20 A. No.

21 Q. Were any words exchanged between you and Gun Control?

22 A. Not really. I don't think there were.

23 Q. Now, when did you give him the money?

24 A. I gave him the money at the clubhouse.

25 Q. Okay. Did you give it to him before he gave you the drugs

1 or after?

2 A. I think I gave him the money before he gave me the drugs.

3 Q. Okay. And did you give him all of the money?

4 A. Yes.

5 Q. What did you do with the drugs after he gave them to you?

6 A. I put them in my pocket.

7 Q. And after you put them in your pocket, what did you do  
8 next?

9 A. I called Dave.

10 Q. Okay. And did you call him on the telephone or some other  
11 way?

12 A. No, my cell phone.

13 Q. And what did you tell him?

14 A. I told him I was done, I was ready to come see him.

15 Q. And did you do that?

16 A. Yes.

17 Q. And how far away was Dave from where you were located?

18 A. Maybe seven miles.

19 Q. So after you left, did you meet with Dave?

20 A. Yes.

21 Q. And what did you do when you met with Dave?

22 A. He searched me. He searched my bike. He took the  
23 recording device; he shut it off. He took the drugs.

24 Q. Did you have a conversation with him at that time?

25 A. A quick one.

1 Q. And what did you do after that?

2 A. Went back to the clubhouse.

3 Q. All right. And what did you do when you got back to the  
4 clubhouse?

5 A. Had a good time.

6 Q. Okay. And when you went to see Vern initially and had the  
7 conversation with him about buying drugs, what, what did you  
8 tell Vern about why you needed \$500 in drugs?

9 A. It was for a friend of mine.

10 Q. And a friend of mine -- a friend of yours that you wanted  
11 to give the drugs to, sell the drugs to? What was the  
12 conversation with Vern?

13 A. That I had a friend of mine that wanted \$500 worth of meth.

14 Q. All right. And so you were going to sell this, this meth  
15 to this other person?

16 A. Yes.

17 Q. Did Vern -- did you tell Vern that that's what you were  
18 going to do?

19 A. Yes.

20 Q. And so after you had this meeting with Special Agent  
21 Opperman, or Dave, you went back to the clubhouse. And had  
22 you been missed? Were you gone for a long time?

23 A. No.

24 Q. All right. Did there come a time where you agreed to do  
25 another controlled buy?

1 A. Yes.

2 MS. MOHSIN: Okay. Just a moment, please.

3 BY MS. MOHSIN:

4 Q. Do you remember the date of the first controlled buy? You  
5 said it was the steak fry?

6 A. No, I don't remember the date.

7 Q. Was it in 2007?

8 A. I would -- yeah, could have been.

9 Q. The meth that you -- or excuse me.

10 What type of drugs did you purchase from Vern? What  
11 was your understanding of the type of drug that you were  
12 purchasing from him?

13 A. It was meth.

14 Q. After you obtained the meth from Gun Control, did you use  
15 it?

16 A. No.

17 Q. Did you give any of it away?

18 A. No.

19 Q. Did you open the bag in any way?

20 A. No.

21 Q. Did you tamper with it in any way?

22 A. No.

23 Q. So after you got it from Gun Control, between the time you  
24 got it from Gun Control and provided it to Special Agent Dave  
25 Opperman, did you do anything at all with those drugs?

1 A. No.

2 Q. Other than turn them over?

3 A. Yes.

4 Q. Similarly, did you tamper with the recording device in any  
5 way?

6 A. No.

7 Q. I want to direct your attention now to the second time that  
8 you were involved in purchasing drugs.

9                 After the first time, which was, you described, you  
10 know, the steak fry, how long after that did you begin to try  
11 and purchase drugs the second time?

12 A. I don't remember. Maybe a month.

13 Q. Okay. And were you going to be purchasing from Vern again?

14 A. Yes.

15 Q. Can you describe whether you made any efforts to contact  
16 Vern to set up a deal?

17 A. Yes.

18 Q. And what was the story as far as who you were going to be  
19 giving this meth to?

20 A. The story was for a friend of mine.

21 Q. Now, is it the same friend or a different friend?

22 A. Same, same friend.

23 Q. Did you have a conversation with Vern that was recorded  
24 prior to the second buy?

25 A. Yes.

1      Q. And what was the purpose of that conversation?

2      A. So we could figure out where we wanted to meet to get the  
3            drugs.

4      Q. Okay. Now, the conversation that you had with Vern, you  
5            indicated that was recorded?

6      A. Yes.

7      Q. I'm going to play for you what's been admitted as R-3 and  
8            ask you to listen to the conversation. And at the conclusion  
9            of it, I'm going to ask you some questions. Okay?

10            MS. MOHSIN: Please publish.

11            (Publishing Government Exhibit R-3, 3:27 p.m. - 3:32 p.m.)

12            BY MS. MOHSIN:

13      Q. Mr. Pizzuti, during that conversation, Vern tells you that  
14            he can leave it somewhere for you. What is your understanding  
15            of what he's talking about?

16      A. He was going to leave it behind my house.

17      Q. What specifically is "it"?

18      A. The drugs.

19      Q. Okay. And you tell him that you don't want him to do that;  
20            is that correct?

21      A. Yes.

22      Q. Now, at some point, you start asking him questions about  
23            how much your friend can expect for a thousand, right?

24      A. Right.

25      Q. And during that conversation, there's a reference to Vern

1      saying, "I don't -- you don't want me to answer that shit on  
2      the, you know --"

3                And you say, "On the phone."

4                Do you remember that part of the call?

5                What is your understanding of, of that particular part  
6      of the, of the conversation?

7                What is Vern saying to you? What do you understand?

8      A. He doesn't want to discuss details on the phone about a  
9      drug buy.

10     Q. And is that his way of telling you that he doesn't want to  
11      talk about that on the phone?

12     A. (Nodding head.)

13     Q. Okay. After you have this conversation with Vern, does a  
14      transaction take place?

15     A. Yes.

16     Q. And when does that occur? Does it occur the same day or on  
17      a different day?

18     A. Different day.

19     Q. Do you remember how long after?

20     A. No.

21     Q. Now, the transaction that takes place, does it take place  
22      with Vern or with someone else?

23     A. With someone else.

24     Q. Who is that person?

25     A. Pauli.

1 Q. And describe how that transaction takes place with Pauli.

2 In other words, where are you when it takes place?

3 A. We were at my shop.

4 Q. All right. You were at your shop.

5 And do you know beforehand that Pauli is going to be  
6 coming to meet with you to do the exchange?

7 A. Yes.

8 Q. And do you relay that information to the FBI?

9 A. Yes.

10 Q. And do they have time to respond, in other words, to get  
11 you a recording device?

12 A. Yes.

13 Q. Tell the jury about that.

14 A. I met with Dave. He gave me -- he searched me, searched  
15 the bike, or my vehicle at that time. Turned on the recorder,  
16 gave me the money. I went back to the shop to receive the  
17 drugs.

18 Q. And how much money did he give you?

19 A. He gave me, I think it was, 13 or 14.

20 Q. 14 what?

21 A. Hundred.

22 Q. Hundred dollars?

23 A. Yes.

24 Q. And how much of that money was designed for or was to be  
25 used for the purchase of drugs?

1 A. A thousand.

2 Q. Again, was this methamphetamine that we're talking about  
3 here?

4 A. Yes.

5 Q. So the remaining three or four hundred dollars that you  
6 referenced, what was the purpose of that money?

7 A. I owed some money to, to the club.

8 Q. You owed money to the club?

9 A. Yes.

10 Q. And what kind of money did you owe to the club?

11 A. It was a few hundred dollars. I can't remember exactly how  
12 much.

13 Q. And were the -- were these monies that were owed to the  
14 club for a particular purpose or for a particular reason?

15 A. For my dues.

16 Q. The dues that you referenced earlier that you paid?

17 A. (Nodding head.)

18 Q. And did you, did you owe -- were you in arrears? You  
19 owed --

20 A. Yes.

21 Q. -- back dues?

22 So can you describe what happens after Special Agent  
23 Opperman gives you the recording device and the \$1,400 or  
24 \$1,300?

25 A. I go back to the shop. I wait for Pauli. Pauli arrives.

1 He hands me a cigarette pack. I look inside. The drugs are  
2 inside. I gave him the money.

3 Q. And where does this occur, inside your shop or outside?

4 A. No, outside.

5 Q. Outside of the shop. Why does it occur outside and not  
6 inside?

7 A. There was people in the shop.

8 Q. Do you know who those people were?

9 A. Not offhand. I mean --

10 Q. So there were people inside the shop?

11 A. Yeah. There were people in the shop.

12 Q. And how much money do you give Pauli for the drugs?

13 A. A thousand.

14 Q. And did you give him any other money?

15 A. I gave him, like, 300 or 400. I can't remember exactly how  
16 much it was.

17 Q. And was that for the dues that you referenced earlier?

18 A. Yes.

19 Q. Now I'm going to play for you a call that's admitted. This  
20 is R-4. I'll ask you to listen to it and we'll ask you some  
21 follow-up questions.

22 MS. STOUT: Your Honor, I'm going to object to wasting  
23 time. We've played all three, four of these tapes through  
24 Opperman. The jury has heard them. They've seen the  
25 transcripts.

1           THE COURT: All right. I overrule the objection. The  
2 Government is not unnecessarily duplicating actions.

3           Go ahead.

4           MS. MOHSIN: Okay.

5           (Publishing Government Exhibit R-4, 3:36 p.m. - 3:39 p.m.)

6 BY MS. MOHSIN:

7 Q. Mr. Pizzuti, is that you and Paul Darrah on this particular  
8 recording?

9 A. Yes.

10 Q. And in this recording, in the beginning of the recording,  
11 Darrah tells you -- withdrawn.

12           You tell Darrah, "What do you want me to do with this  
13 guy?"

14           And he says, "Which one?"

15           You say, "Vern."

16           What are you talking about there?

17 A. About having -- the fact to have Pauli coming deliver drugs  
18 instead of Vern.

19 Q. Why is that something that's noteworthy?

20 A. It's just a pain in the ass, I guess.

21 Q. It's what?

22 A. It was just a pain in the ass at the time.

23 Q. Why is that?

24 A. Because it's not Pauli's -- it wasn't Pauli's  
25 responsibility.

1 Q. And so you didn't like that fact; is that what it is?

2 A. Yeah.

3 Q. All right. And what does, what does it mean when Pauli  
4 says, "It doesn't matter to me."

5 And you tell him, "I'm just trying to make some money  
6 off this," what does that mean?

7 A. I don't know.

8 Q. You don't understand the question?

9 A. I don't -- I couldn't hear the tape.

10 Q. I'm going to show you the transcript. Perhaps that will  
11 refresh your recollection.

12 A. (Nodding head.)

13 Q. When you tell Pauli, "I'm just trying to make some money  
14 off of this," what are you saying to him? What does that mean?

15 A. It sounds like he's trying to make some money off of  
16 delivering the drugs.

17 Q. It sounds like he's trying to make money off of it, too; is  
18 that what you're saying? Okay.

19 Now, if he's going to make money off it, is that going  
20 to cut into your profit? Is that what you're concerned about?

21 A. No.

22 Q. All right. Can I have the transcript?

23 Now, during the conversation, did you physically count  
24 out the money when we hear you saying, "100, 200, 300,"  
25 et cetera?

1 A. Yes.

2 Q. And did you pay him before he gave you the drugs?

3 A. I can't remember if he paid me first or I got the drugs  
4 first or --

5 Q. Okay. And in the end of the conversation, when you say,  
6 "It's fucking good shit," what are you referring to?

7 A. I'm saying?

8 Q. Yeah. What are you referring to?

9 A. I don't know.

10 Q. Are you talking about the meth?

11 A. I guess. Yeah.

12 Q. Now, like the first time you purchased drugs from Gun  
13 Control and Vern, after this one, did you meet with Special  
14 Agent Opperman?

15 A. Yes.

16 Q. And when you met with Special Agent Opperman, did you give  
17 him the drugs that you had purchased?

18 A. Yes.

19 Q. And did you do anything to those drugs --

20 A. No.

21 Q. -- before you gave it to him?

22 A. No.

23 Q. Did you use any of them?

24 A. No.

25 Q. Did you give any of them away?

1 A. No.

2 Q. Did you open the package in any way?

3 A. No.

4 Q. Okay. How about the recording device?

5 A. No.

6 Q. Did you do anything to tamper with it in any way?

7 A. No.

8 Q. Shut it off?

9 A. No.

10 Q. Okay. After the second controlled buy, did there come a  
11 time where you purchased drugs again?

12 A. Yes.

13 Q. And do you remember how much money you were going to use to  
14 purchase drugs this time?

15 A. 2,000.

16 Q. \$2,000?

17 A. Yes.

18 Q. And on this occasion, when you were going to purchase  
19 \$2,000 worth of drugs, did you have communications with anyone  
20 before that was set up; in other words, with Vern or some other  
21 person?

22 A. Yes.

23 Q. Who did you talk to? Did you talk to Vern?

24 A. Yes.

25 Q. And approximately when did that occur? Do you remember

1      when you purchased drugs from Vern?

2      A. I don't remember the date.

3      Q. And was this Vern Rich on this third occasion?

4      A. Yes.

5      Q. Can you describe for the jury how you actually got drugs  
6      from Vern on the third occasion?

7      A. He came to my house.

8      Q. Okay.

9      A. And he, he came to my house, and I went out to his car and  
10     he gave me the drugs and I gave him the money.

11     Q. And how much drugs did he give you? Dollar-wise, how much  
12     did you pay?

13     A. \$2,000.

14     Q. In exchange for a quantity of drugs, was this a larger  
15     quantity than the previous two had been?

16     A. Yes.

17     Q. Was each time a larger quantity, in other words?

18     A. Yes.

19     Q. And you indicated that he came to your house. How did he  
20     get to your house?

21     A. He was in a car.

22     Q. Was it his car?

23     A. Yes.

24     Q. Did you know his car?

25     A. Yes.

1 Q. What kind of car was it?

2 A. A black BMW.

3 Q. And when he came to your house, did he come inside your  
4 home or did you have the transaction somewhere else?

5 A. In his car.

6 Q. It was inside his car. Did you get into his car?

7 A. Yes.

8 Q. Was he there for a long time or a short time?

9 A. Short time.

10 Q. And did you have a recording on that occasion?

11 A. Yes.

12 Q. I am going to -- and did you, did you provide -- withdrawn.

13 Did you meet with the FBI before this meeting?

14 A. Yes.

15 Q. And did you get a recording device?

16 A. Yes.

17 Q. And did you return the recording device after the meeting  
18 to the FBI?

19 A. Yes.

20 MS. MOHSIN: Okay. Your Honor, at this time I'm  
21 going to provisionally offer R-6, which is a recording, into  
22 evidence. It will be -- further foundation will be laid  
23 through Special Agent Fleming.

24 THE COURT: Do you seek to publish now or --

25 MS. MOHSIN: I do seek to publish now, your Honor.

1                   THE COURT: Go ahead.

2                   MS. MOHSIN: Okay. Would you please play R-6?

3                   (Publishing Government Exhibit R-6, 3:46 p.m. - 3:48 p.m.)

4                   BY MS. MOHSIN:

5                   Q. Mr. Pizzuti, during this conversation, are you inside of  
6                   this vehicle that belongs to Vern Rich?

7                   A. Yes.

8                   Q. And when he's talking about the white, clear crystal  
9                   substance, what is he talking about?

10                  A. The meth.

11                  Q. The meth that you're purchasing?

12                  A. Yes.

13                  Q. And when you start counting, "100, 200," et cetera, are you  
14                  counting the money?

15                  A. Yes.

16                  Q. Now, he indicates to you that he is going to give you an  
17                  ounce of weed for free during this conversation.

18                  A. Yes.

19                  Q. Did he give you an ounce of weed for free after this  
20                  exchange?

21                  A. No.

22                  Q. At any time after this?

23                  A. No.

24                  Q. Okay. I want to direct your attention to Government's  
25                  Exhibit 27-2 -- 27 -- I'm sorry, 27-2 -- one moment.

1            You can publish that. It's admitted.

2 BY MS. MOHSIN:

3 Q. Can you look on the screen? Do you recognize that bag?

4 A. Yeah.

5 Q. What do you recognize that to be?

6 A. That's the drugs.

7 Q. Okay. 28-4, do you recognize that?

8 A. Yes.

9 Q. What is that?

10 A. That's the drugs.

11 Q. And I should ask, are these the drugs that you purchased?

12 A. Yes.

13 Q. And which, which time did you purchase the ones depicted  
14 in 28-4?

15 A. This is the second buy.

16 Q. And the previous one, which was 27-2?

17 A. First buy.

18 Q. That was the first buy?

19 A. Yes.

20 Q. I'm going to show you what has been previously marked as  
21 proposed Exhibit 29-3. Do you recognize that photo?

22 A. That's the third buy.

23 Q. That, that's the third buy. Is that the drugs?

24 A. Yes.

25 Q. A photo of the drugs?

1      A. Yes.

2      Q. From the third buy?

3                MS. MOHSIN: Your Honor, the Government offers 29-3.

4      Is that 29-3?

5                THE WITNESS: Yes.

6                MS. MOHSIN: Into evidence.

7                THE COURT: If there is no objection, received.

8                (Exhibit 29-3, received 3:50 p.m.)

9                MS. MOHSIN: Would you publish it, please?

10     BY MS. MOHSIN:

11    Q. Okay. Is that the drugs that's displayed for the jury?

12    A. Yes, it is.

13    Q. Okay. Now, Mr. Pizzuti, you testified earlier that you  
14 made additional recordings, correct?

15    A. Yes.

16    Q. And did you follow the same procedure in all of those  
17 recordings that we've been talking about over and over, about  
18 how you set up, conducted a recording, and then returned the  
19 recording device to law enforcement?

20    A. Yes.

21    Q. Okay. And I should ask you, which I don't think I did,  
22 with respect to the third buy that you made from Vern, did you  
23 deliver that to the agents --

24    A. Yes, I did.

25    Q. -- after, after you purchased it?

1 A. (Nodding head.)

2 Q. You have to answer verbally.

3 A. Yes, I did.

4 Q. And did you use any of that meth that you had obtained from  
5 Vern Rich?

6 A. No, I didn't.

7 Q. Did you open that package?

8 A. No, I didn't.

9 Q. Did you tamper with the recording device in any way, shut  
10 it on or shut it off?

11 A. No, I didn't.

12 Q. Okay. Now, Mr. Pizzuti, I want to direct your attention to  
13 some of the other information that you've provided to law  
14 enforcement during the course of your cooperation.

15 Did you provide information about your involvement in  
16 motorcycle -- stolen motorcycle parts and related -- stolen  
17 motorcycles or stolen motorcycle parts?

18 A. Yes.

19 Q. Have you ever been involved in the theft of motorcycles?

20 A. Yes.

21 Q. Can you describe some instances that you can recall where  
22 you were involved in the theft of motorcycles?

23 A. I stole a motorcycle from a bar in Shelby Township.

24 Q. And do you remember when that would have occurred?

25 A. I don't remember the date.

1 Q. And do you remember if that occurred while you were a  
2 member of the Devils Diciples?

3 A. Yes.

4 Q. Do you remember who you stole that motorcycle from?

5 A. Just some guy.

6 Q. And what did you do with that motorcycle?

7 A. Sold the parts.

8 Q. Okay. Would that have --

9 A. Sold some of the parts, used some of the parts to build  
10 other bikes.

11 Q. So you stole the motorcycle. Did you disassemble it?

12 A. Yes.

13 Q. And what was the purpose of disassembling it?

14 A. Okay. We disassemble the motorcycle to get rid of the VIN  
15 numbers. There's VIN numbers on the engine case, there's  
16 VIN numbers on the transmission case, and on the frame.

17 Q. And are you familiar with these VIN numbers and their  
18 locations because of your experience as a motorcycle mechanic  
19 and builder?

20 A. Yes.

21 Q. And so after you stole this motorcycle in Shelby Township,  
22 do you recall what you did with the parts?

23 Did you disassemble the motorcycle, first of all?

24 A. Yes.

25 Q. What did you do with the parts?

1 A. Put some of them on my shelf and sold some of them.

2 Q. And when you say "put them on your shelf," in your garage?

3 A. Yes.

4 Q. Did you store many motorcycle parts there?

5 A. Yes.

6 Q. Did people within the Devils Disciples know that if they  
7 wanted motorcycle parts, they could come to you?

8 A. Pretty much.

9 Q. Did people bring you stolen motorcycle parts?

10 A. Yes. Yes, they did.

11 Q. Why did you hesitate?

12 A. Because I was trying to get out of bringing stolen bikes to  
13 my -- stolen parts to my shop after a while.

14 Q. So initially, this was something that you were involved in  
15 fairly regularly?

16 A. Yeah.

17 Q. And then at some point, you did not want to be involved in  
18 it any longer?

19 A. Right.

20 Q. Okay. Did you have any contacts with individuals to obtain  
21 stolen motorcycles or stolen motorcycle parts?

22 A. Somewhat.

23 Q. Who were some of those contacts?

24 A. That was a guy in the -- from the Highwaymen.

25 Q. Okay.

1 A. That I knew, I knew about.

2 Q. Who was that?

3 A. I don't remember his name. I had to go through another guy  
4 in the club.

5 Q. And would they provide you with stolen motorcycle parts?

6 A. Yes.

7 Q. And did you use them in building motorcycles or replacing  
8 other parts for other motorcycles?

9 A. Yes.

10 Q. Did you ever get involved in a scheme to defraud an  
11 insurance company as it relates to a motorcycle?

12 A. Yes.

13 Q. Can you tell the jury about that?

14 A. It was my motorcycle.

15 Q. Did you own it?

16 A. Yes.

17 Q. Was it lawfully owned?

18 A. Yes.

19 Q. And titled?

20 A. Yes.

21 Q. And you had obtained it lawfully?

22 A. Yes.

23 Q. What did you do with that lawfully-owned motorcycle?

24 A. I did an insurance job on it.

25 Q. And what does that entail?

1 A. I claimed to insurance that it was stolen.

2 Q. And what was the real story?

3 A. I built another motorcycle for Pauli to ride.

4 Q. And was this at Pauli's request?

5 A. Yes.

6 Q. What did he ask you to do?

7 A. Build him a bike to ride.

8 Q. And so who suggested, was it you or Pauli who suggested  
9 doing the insurance job on your motorcycle?

10 A. Pauli's. Both of ours.

11 Q. So it was something that you decided with Pauli?

12 A. Yeah.

13 Q. And just explain to the jury how this works, mechanically.  
14 You have a motorcycle that you own.

15 A. Okay. You take a motorcycle that you own. You tear it  
16 apart and you get rid of those three items. You get rid of the  
17 engine case, the transmission case and the frame.

18           Then you go into a magazine, and you can buy a frame,  
19 an engine case and a trans case that comes with papers of  
20 origin. And after you get those papers of origin, you can put  
21 your bike together. Then take all that paperwork down to the  
22 Secretary of State. And then they'll give you a new title with  
23 all those numbers into one title.

24 Q. So this is some information that you have because of your  
25 experience with motorcycle repair; is that correct?

1 A. Yes.

2 Q. And in order for a motorcycle to be successfully rebuilt,  
3 there has to be a new title?

4 A. Yes.

5 Q. And you can get that at the Secretary of State?

6 A. Yes.

7 Q. Does that have a name?

8 A. It's an assembled title.

9 Q. It's called an assembled title.

10           What about the insurance end of it? You indicated  
11 that you took your motorcycle and did this. How does the  
12 insurance company get involved to make a payment? What has to  
13 happen? Does somebody have to report it stolen?

14 A. Yes. Yes.

15 Q. Did that occur here?

16 A. Yes.

17 Q. How did that happen? How did that come about?

18 A. Pauli reported it stolen to the police.

19 Q. And why would Pauli report it stolen, rather than you?

20 A. Because I gave him most of the parts, or all the parts.

21 Q. All right. So the plan was that Pauli would report it  
22 stolen.

23           And was the plan that he would say it was -- he was  
24 using it or borrowing it or something along those lines?

25 A. Yes.

1 Q. And to your knowledge, did he report it stolen?

2 A. Yes.

3 Q. Was a cash payment made to you from the insurance company?

4 A. Yes.

5 Q. Approximately how much money did you get?

6 A. Don't remember.

7 Q. Was it significant?

8 A. Yeah.

9 Q. Couple thousand dollars? Several thousand dollars?

10 A. Couple thousand.

11 Q. And the motorcycle that was disassembled and those three  
12 items that you referenced, they were taken apart, yes?

13 A. Yes.

14 Q. Did you then order parts from a motorcycle part magazine?

15 A. Yes. Either I did or he did. I can't remember.

16 Q. So at some point you obtained legitimate parts; is that a  
17 fair statement?

18 A. Yes.

19 Q. And what happened to that motorcycle? Was it given to Paul  
20 Darrah?

21 A. Yes.

22 Q. And did he ride it?

23 A. Yes.

24 Q. Did you do anything along that, those lines or similar for  
25 any other members of the Devils Diciples?

1 A. Yes, I did.

2 Q. Who did you do it for?

3 A. Fat Dog.

4 Q. All right. Tell the members of the jury about that.

5 A. There were the parts from that previous bike I admitted to  
6 stealing.

7 Q. From Shelby?

8 A. Yes. Those, those parts were involved in putting Fat Dog's  
9 bike together.

10 Q. And why did you put a bike together for Fat Dog?

11 A. Because he asked me to.

12 Q. And he didn't have a bike to ride; is that correct?

13 A. Yes.

14 Q. Or he wanted another one?

15 A. Yes.

16 Q. Both?

17 A. He wanted --

18 Q. Did he want another one or --

19 A. He needed a bike to ride.

20 Q. He needed a bike to ride.

21 And so you used parts from the bike that you  
22 personally had stolen from Shelby?

23 A. (Nodding head.)

24 Q. Okay. And did you charge Fat Dog or Pauli any money for  
25 recreating motorcycles for them in this fashion?

1 A. No.

2 Q. Did they give you any money for it?

3 A. Not that I can remember.

4 Q. All right. Did you do this for any other members of the  
5 Devils Disciples?

6 A. Not that I can remember.

7 Q. Is it possible that you did, but you don't recall?

8 A. Yes.

9 Q. And did you do it for members of other motorcycle clubs,  
10 like the Highwaymen or others?

11 A. Yes.

12 Q. You did?

13 A. Yes.

14 MS. STOUT: Your Honor, I'm going to object to, is it  
15 possible that you did it for others and you just don't recall.

16 THE WITNESS: I recall now there was a Road King that  
17 I did that with.

18 THE COURT: Oh, there.

19 BY MS. MOHSIN:

20 Q. Can you tell us about the Road King?

21 A. I gave it to my father.

22 Q. And where did you get that particular motorcycle?

23 A. From Monkey.

24 Q. Okay. Who is Monkey?

25 A. Monkey was a guy in our club. I think he got that bike

1 from the Highwaymen.

2 Q. So Monkey got a motorcycle from a Highwayman?

3 A. Yes.

4 Q. Do you know Monkey's real name?

5 A. No.

6 Q. And did you ever meet Monkey?

7 A. Yes.

8 Q. Do you remember -- well, how did you get the motorcycle  
9 from Monkey?

10 A. I went to his shop and looked at it.

11 Q. And how did he get it? Did he steal it or did he obtain it  
12 in some other fashion?

13 A. He either stole it or he obtained it from the Highwaymen.

14 Q. And he gave it to you?

15 A. Yes.

16 Q. For what purpose?

17 A. So I could build the bike.

18 Q. And were you in need of one or was he offering to sell it  
19 to you? What were the circumstances?

20 A. I bought it for a thousand dollars.

21 Q. All right. So you paid Monkey a thousand dollars for this  
22 motorcycle.

23 Did you know that it was stolen when you paid him?

24 A. Yes.

25 Q. And you, did you do the same thing, create an assembled

1 title for this with parts from a legitimate source?

2 A. Yes.

3 Q. And did you give that to your father?

4 A. Yes.

5 Q. Okay. Is this an activity, this stolen motorcycle  
6 parts-related activity, a common activity that you engaged in  
7 for a period of time? Did it happen a lot?

8 A. Yes.

9 Q. Okay. Now, Mr. Pizzuti, did there ever come a time where  
10 you were working on behalf of the FBI and you were using or  
11 abusing a controlled substance or an illegal drug?

12 A. Yes.

13 Q. Okay. Can you tell the jury about that?

14 A. It was Vicodin.

15 Q. All right. You were using Vicodin?

16 A. Yes.

17 Q. And was this a substance that you were using without the  
18 knowledge of the FBI?

19 A. Yes.

20 Q. How often were you using it?

21 A. I was using it all along.

22 Q. All right. And did there come a time where you were  
23 confronted about your use --

24 A. Yes.

25 Q. -- of this substance?

1 A. Yes.

2 Q. And who were you confronted by?

3 A. Dave.

4 Q. Dave, the Special Agent from the FBI that we've been  
5 talking about?

6 A. Yes.

7 Q. And did you admit to him that you had held this information  
8 back?

9 A. Yes.

10 Q. Why did you hold it back?

11 A. Because I didn't want to lose out on any extra pills.

12 Q. All right. Were you addicted to Vicodin at this point?

13 A. Yes.

14 Q. Now, did you use cocaine, snorting or otherwise, during the  
15 time that you were cooperating with law enforcement?

16 A. Yes.

17 Q. All right. Tell the jury about that.

18 A. I was just -- I would use cocaine on weekends.

19 Q. And was the FBI aware that you were doing this?

20 A. No.

21 Q. Did you ever reveal that to them?

22 A. No.

23 Q. Were you ever asked about cocaine?

24 A. No.

25 Q. All right. Now, I want to direct your attention to after

1       you made these recorded calls, purchased these drugs. Did you  
2 continue to provide information to the FBI?

3       A. Yes.

4       Q. And when you were asked questions, were you truthful in  
5 your answers?

6       A. Yes.

7       Q. Okay. Did you hold back any other information?

8       A. No.

9                   MS. MOHSIN: I have nothing further, your Honor.

10          Thank you.

11                  Thank you, Mr. Pizzuti.

12                  THE COURT: Let's take about ten minutes for a  
13 restroom break and stretch of the legs, ladies and gentlemen.  
14 We'll work for probably another 15 to 20 minutes today, and  
15 then we're going to recess.

16                  Escort yourselves to the jury room, please. Ten  
17 minutes.

18                  COURT REPORTER: Please rise.

19                  (Recess taken, 4:05 p.m. - 4:15 p.m.)

20                  THE CLERK: All rise.

21                  THE COURT: Wait on the jury. I said wait. CSO,  
22 wait. That means wait. Okay. Thank you. All right. Thank  
23 you. Just wait. Okay. Thank you.

24                  Okay. Back on the record. Sit down. Please be  
25 seated.

1                   Counsel are present. Defendants are present.

2                   It occurred to me after I recessed and told the  
3 jury we had more work to do that you may want to reserve,  
4 Ms. Darrah -- Mr. Darrah's counsel. Ms. Maceroni suggested  
5 earlier the possibility of reserving until later.

6                   Are there any who are prepared for cross-examination  
7 of the witness now, at least 15 minutes or so.

8                   MR. SABBOTA: I can. I didn't mean to interrupt you.  
9 I can start and do 15 minutes.

10                  THE COURT: Okay. So we'll use some time and then  
11 you can decide whether to reserve. He'll be back presumably  
12 on -- at some time, probably Wednesday, when we resume the  
13 Court session.

14                  So let's bring the jury in and we'll proceed on that  
15 basis.

16                  (Jury in, 4:16 p.m.)

17                  THE COURT: Okay. The jury is assembled. Be seated,  
18 please. Everyone is in place.

19                  And we're going to work for not more than an  
20 additional 20 minutes this afternoon, and then recess until  
21 Wednesday, ladies and gentlemen, consistent with the printed  
22 schedule.

23                  So for cross-examination, Mr. Sabbota?

24                  MR. SABBOTA: Thank you, Judge.

25                  THE COURT: If you're ready, sir, you may proceed.

## 1                           CROSS-EXAMINATION

2     BY MR. SABBOTA:

3     Q.   How are you?

4     A.   All right.

5     Q.   Okay. Mr. Pizzuti, you told us that you joined the Devils  
6     Disciples in about 1999; is that about right?

7     A.   Uh-huh.

8     Q.   You have to say yes or no.

9     A.   Yes.

10    Q.   Or answer me any way you want and verbalize it, because the  
11    lovely court reporter has to take it down.

12    A.   Okay.

13                           THE COURT: Okay? Thank you.

14                           THE WITNESS: Okay.

15    BY MR. SABBOTA:

16    Q.   All right. You said you joined roughly in 1999.

17    A.   Yes.

18    Q.   And there were certain rules when you joined the club; am I  
19    right?

20    A.   Yes.

21    Q.   One of the rules was, you had to go to church?

22    A.   Yes.

23    Q.   And what church really was, is a meeting that's held by the  
24    members of the club?

25    A.   Right.

1 Q. The only people that could come to the church meetings were  
2 members of the club?

3 A. Right.

4 Q. Outsider couldn't come?

5 A. Right.

6 Q. You had to be a member of the club?

7 A. Right.

8 Q. Prospect couldn't be there?

9 A. Right.

10 Q. Had to be a member of the club?

11 A. Yes.

12 Q. And the club also went on what they called runs, didn't  
13 they?

14 A. Yes.

15 Q. And when we talk about runs, we talk about riding our  
16 motorcycle?

17 A. Yes.

18 Q. They would go on runs to different clubs?

19 A. Yes.

20 Q. They would go on runs to parties?

21 A. Yes.

22 Q. They would go on runs just to drive your motorcycle?

23 A. Yes.

24 Q. And they used to do a lot of charity runs, didn't they?

25 A. Yes.

1 Q. They did charity runs for the Port Huron Hospital?

2 A. Yes.

3 Q. They did charity runs for diabetes?

4 A. Yes.

5 Q. They did charity runs for mentally-handicapped children?

6 A. Yes.

7 Q. They did charity runs for the severely-impaired kids?

8 A. Yes.

9 Q. They used to do that all the time, didn't they?

10 A. Yes.

11 Q. How many charity runs do you think you went on?

12 A. Hundreds.

13 Q. Hundreds, didn't you? Is that a yes?

14 A. Yes.

15 Q. It was sort of like a monthly thing?

16 A. Yes.

17 Q. They were doing something, and you used to talk about that  
18 at church, they were doing something to sort of give back to  
19 the community?

20 A. Yes.

21 Q. Am I right?

22 A. Yes.

23 Q. And that went on the entire time you were a member of the  
24 Devils Diciples, didn't it?

25 A. Yes.

1 Q. It hasn't stopped, has it?

2 A. No.

3 Q. And the other thing you have to do is you have to pay dues?

4 A. Yes.

5 Q. Like any other club; yes?

6 A. Yes.

7 Q. So if you join, like, a country club, you've got to pay  
8 dues?

9 A. Yes.

10 Q. You join the Devils Diciples, you've got to pay dues?

11 A. Yes.

12 Q. Dues were paid or assessed on a weekly basis?

13 A. Yes.

14 Q. Generally, it was \$20 a week for your dues for the club?

15 A. Yes.

16 Q. And the dues went for things like to pay for the club?

17 A. Yes.

18 Q. Dues went for things like to pay for the booze?

19 A. Yes.

20 Q. Or the alcohol?

21 A. Yes.

22 Q. Dues went for things to support the club itself?

23 A. Yes.

24 Q. Because it's a club among various members; am I right?

25 A. Yes.

1    Q. And in order to support the club, you've got to have some  
2    money?

3    A. Yes.

4    Q. And those were dues from legitimate sources?

5    A. Yes.

6    Q. In fact, you owned a bike shop, so to speak?

7    A. Yes.

8    Q. You were very good in rebuilding bikes and cars?

9    A. Yes.

10   Q. That was a legitimate job?

11   A. Yes.

12   Q. Am I right?

13   A. Yes.

14   Q. That wasn't a job that was illegal?

15   A. No.

16   Q. That was something you were skilled in, wasn't it?

17   A. Yes.

18   Q. And you did that for years; am I right?

19   A. Yes.

20   Q. And you said at one time, I think you were vice president?

21   A. Yes.

22   Q. That's an elected position, isn't it?

23   A. Yes.

24   Q. So nobody appoints you vice president. The members of the  
25   club come to church; am I right?

1 A. Yes.

2 Q. And then they vote for who they want to be president.

3 A. Yes.

4 Q. And if they like you the best, you get to be president.

5 A. Yes.

6 Q. And that was a normal occurrence, wasn't it?

7 A. Yes.

8 Q. Various times, people would run, and they would get elected  
9 president?

10 A. Right.

11 Q. Or vice president?

12 A. Yes.

13 Q. And sometimes, they would lose their election and get  
14 thrown out?

15 A. Right.

16 Q. Am I right?

17 A. Yeah.

18 Q. Sort of politics?

19 A. Yeah.

20 Q. Also, my understanding is that you guys used to have  
21 parties?

22 A. Pardon me?

23 Q. Parties.

24 A. Yes.

25 Q. You guys, I mean it's a bunch of guys that would get

1     together, would go to the clubhouse, drink, and have a good  
2     time; am I right?

3     A. You are right.

4     Q. And you used to have a pretty good time at those parties,  
5     didn't you?

6     A. Yeah.

7     Q. And for a long time, you were a member of that club,  
8     enjoying those parties?

9     A. Yes.

10    Q. Now, during the course that you were a member of the club,  
11    you were using marijuana; am I right?

12    A. Yes.

13    Q. In fact, you became, for lack of a better word, addicted to  
14    marijuana while you were in high school?

15    A. Yes.

16    Q. And you used to use cocaine?

17    A. Yes.

18    Q. How much marijuana did you use a week, if you remember?

19    A. What?

20    Q. How much marijuana did you use a week?

21    A. A week?

22    Q. Yeah, a week.

23    A. Probably smoke a joint a day.

24    Q. All right. So you smoked at least one joint a day. And  
25    how big were your joints?

1      A. About the size of a cigarette.

2      Q. About the size of a cigarette. And it would be at least

3      one a day, yes?

4      A. Yes.

5      Q. And during the time, did you also drink?

6      A. Yes.

7      Q. And how much did you drink during the week?

8      A. During the weekend?

9      Q. During the weekend.

10     A. About a half gallon.

11     Q. Half gallon of what?

12     A. Bacardi.

13     Q. Bacardi, the white rum?

14     A. Yeah.

15     Q. Did you mix it?

16     A. Yeah.

17     Q. So did you -- you smoked the joint and you mixed the rum,

18     yes?

19     A. Yeah.

20     Q. So you were pretty buzzed on most of the weekends; would

21     that be a fair statement?

22     A. Yes.

23     Q. And you also used cocaine?

24     A. Yes.

25     Q. And how much cocaine did you use?

1 A. A teener.

2 Q. Okay. For the benefit of the jury, what's like a teener?

3 A. It's a gram and three-quarters.

4 Q. Okay. A gram and three-quarters.

5 A. Yeah.

6 Q. And did you snort that?

7 A. Yes.

8 Q. Because sometimes you laced it with marijuana, right?

9 A. No.

10 Q. Okay. But you would snort it?

11 A. Yes.

12 Q. So you would drink, yes?

13 A. Yes.

14 Q. You would smoke marijuana?

15 A. Yes.

16 Q. And you'd snort the cocaine?

17 A. Yes.

18 Q. How often?

19 A. Every weekend.

20 Q. Over, let's say, the last seven-year period?

21 A. Every weekend.

22 Q. Every weekend. And during the week, you would do some?

23 A. No.

24 Q. No. Did you ever use any heroin?

25 A. Pardon me?

1 Q. Did you ever use heroin? Heroin, did you --

2 A. No. No.

3 Q. You're sure you never used heroin?

4 A. Positive.

5 Q. Positive.

6 Do you remember testifying before the grand jury back  
7 on June 1st of 2011? Remember, there was a proceeding that was  
8 held with a bunch of people? And Mr. Straus was there, and  
9 Ms. Mohsin was there?

10 A. Yeah.

11 Q. Do you remember that?

12 A. Uh-huh.

13 Q. Do you remember being asked the question:

14 "Did there come a time when you were also using any  
15 other illegal drugs like heroin?"

16 A. No.

17 Q. Do you remember answering: "Yes, there was a short while  
18 that I was using heroin"?

19 A. No. I don't remember.

20 Q. You don't remember that?

21 A. No.

22 Q. Do you remember being asked the question:

23 "Do you remember when that would have been,  
24 approximately what years that was?"

25 A. No.

1 Q. You said approximately 2007 to 2005. Do you remember that?

2 A. No.

3 Q. Okay. Do you remember being asked the question whether you  
4 ever were in rehab for any type of addiction, and you said for  
5 heroin? Do you remember that?

6 A. No.

7 Q. Are you sure?

8 A. Yeah.

9 Q. Do you remember testifying before the grand jury?

10 A. Yeah.

11 Q. But you don't remember answering those questions?

12 A. No, I don't.

13 Q. If I were to approach you and you were to review it, would  
14 it refresh your recollection?

15 A. Probably.

16 MR. SABBOTA: May I approach him, your Honor, please?

17 THE COURT: Yes, you may.

18 BY MR. SABBOTA:

19 Q. It's right there, sir. Just take your time.

20 A. That purple there?

21 Q. The purple, to make it easy for you.

22 A. Okay. I said it.

23 Q. You said it.

24 A. Yup.

25 Q. If you said it at the time, it would have been true, I

1    would think?

2    A. Yes.

3    Q. Yes?

4    A. Yes.

5    Q. Am I right?

6    A. Yes.

7    Q. All right. You were under oath at the time, just like you  
8    are today?

9    A. Yup.

10   Q. Am I right?

11   A. Yup.

12   Q. Before the jury?

13   A. Yup.

14   Q. So during the period of time, sir, from those dates, you  
15   were also using heroin?

16   A. Yup.

17   Q. How much heroin were you using?

18   A. I don't remember.

19   Q. You don't remember?

20   A. No.

21   Q. Were you using it in combination with the cocaine?

22   A. I don't remember.

23   Q. Were you using it in combination with the marijuana?

24   A. I don't remember.

25   Q. Were you using it in combination with the alcohol?

1 A. I don't remember.

2 Q. And then there came a time that, I guess, you used to get  
3 pounds of marijuana from Rich?

4 A. Yes.

5 Q. From Mr. Rich? Is that a yes?

6 A. Yes.

7 Q. When did you begin getting pounds of marijuana? When did  
8 that begin?

9 A. I don't remember.

10 Q. Okay. Did it happen in 2000?

11 A. I don't remember.

12 Q. How many times do you think you got pounds of marijuana?

13 A. A few times.

14 Q. A few times?

15 A. I guess.

16 Q. And the reason you got pounds of marijuana was to sell it,  
17 I would think?

18 A. Yes.

19 Q. Because a pound of marijuana is a lot of marijuana for a  
20 guy to use, isn't it?

21 A. Yeah.

22 Q. All right. How much would you sell it for?

23 A. The pound?

24 Q. Yeah.

25 A. A thousand.

1 Q. And you would, you would sell it by the pound?

2 A. Yeah.

3 Q. So you were a pound marijuana dealer?

4 A. Yeah.

5 Q. For how long were you a pound marijuana dealer?

6 A. I only had -- I can't remember exactly. I think it was  
7 only three or four buys.

8 Q. All right. So three or four times, at least, you sold  
9 marijuana?

10 A. Right.

11 Q. And you sold marijuana to citizens, didn't you?

12 A. Yeah.

13 Q. Okay. What I mean by "citizens," the marijuana that you  
14 sold, it wasn't to guys that rode bikes?

15 A. Yeah.

16 Q. Right?

17 A. No.

18 Q. It wasn't to the Highwaymen?

19 A. Went to a guy who rode a bike.

20 Q. Okay. But it wasn't to the Devils Diciples?

21 A. No.

22 Q. He was a citizen?

23 A. Yes.

24 Q. What I mean by a citizen was, he wasn't a member of the  
25 club.

1 A. No.

2 Q. Am I right?

3 A. Yes.

4 Q. All right. And then what happens in roughly 2006, the ATF  
5 people come to your house; am I right?

6 A. Uh-huh.

7 Q. Is that a yes?

8 A. Yes.

9 Q. And when they come to your house, they search your house,  
10 and they find a gun with a silencer on it.

11 A. Yup.

12 Q. Now, you knew it was illegal to have the silencer?

13 A. Yeah.

14 Q. You knew you were breaking the law by having the silencer.

15 A. Yes.

16 Q. And you were kind of upset that the ATF came and found this  
17 silencer.

18 A. Yeah.

19 Q. And so the first thing that happened was, they took a  
20 statement from you.

21 A. Yup.

22 Q. Do you remember that?

23 A. Yup.

24 Q. Ms. Mohsin said how you raised -- you didn't raise your  
25 hand, but what you did was they advised you of your rights?

1 A. Yeah.

2 Q. You had the right to have a lawyer, right?

3 A. Yup.

4 Q. Right to remain silent?

5 A. Yup.

6 Q. Right not to have anything used against you?

7 A. Yeah.

8 Q. Am I right?

9 A. Yup.

10 Q. And the first thing you did was lie to them.

11 A. Yup.

12 Q. And so we know what a lie is; that's like a  
13 misrepresentation of the facts for one's benefit?

14 A. Yup.

15 Q. And the reason you lied was, hopefully, to protect  
16 yourself, wasn't it?

17 A. No. I was afraid.

18 Q. You were afraid.

19 A. Yeah.

20 Q. But you lied?

21 A. Yeah.

22 Q. And the lie was an intentional lie?

23 A. No, it wasn't intentional.

24 Q. It was not intentional?

25 A. (Shaking head.)

1 Q. It was just a lie?

2 A. Yeah.

3 Q. All right. You didn't decide to tell anybody the truth for  
4 about a year; am I right?

5 A. I don't remember.

6 Q. Well, eventually, you have a conversation where you tell  
7 them you bought the gun from a Little Dog, roughly in January  
8 of 2007. Do you remember that conversation?

9 A. Yup.

10 Q. And then you told them that you bought this gun from Little  
11 Dog?

12 A. Yup.

13 Q. Am I right?

14 A. If that's what this says.

15 Q. And Little Dog, at the time, was dead?

16 A. Pardon me?

17 Q. Was Little Dog dead at the time?

18 A. I don't remember.

19 Q. All right. But Little Dog has died?

20 A. Yes. He's dead.

21 Q. All right. So there's no way to verify that, other than we  
22 have your word?

23 A. Yup.

24 Q. The first word you're telling us is a lie, the second time  
25 you're telling us, it's the truth?

1 A. Right.

2 Q. Let's talk about the steak fry where you made your first  
3 purchase of meth, all right?

4 A. Okay.

5 Q. Because what happens is, you get jammed up with the  
6 Government; am I right?

7 A. Yeah.

8 Q. You don't want to go to prison?

9 A. Right.

10 Q. You want to do whatever it takes to get you out --

11 A. Yeah.

12 Q. -- of a federal situation, don't you?

13 A. Yeah.

14 Q. Okay. And you also wanted to benefit your father, didn't  
15 you?

16 A. Yeah.

17 Q. Because your father got -- picked up a charge, too, didn't  
18 he?

19 A. Yeah.

20 Q. And so one of the benefits that you have already received  
21 is that your father hasn't been charged; isn't that right?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yeah.

25 Q. All right. So you've got that benefit for your

1 cooperation. We're just waiting to see the entire benefit  
2 you're going to get; am I right?

3 A. Yeah.

4 Q. And that's why it's dismissed; right now, the case is  
5 pending on how you do?

6 A. On how I do?

7 Q. Yeah. How you -- how well you come off in court, how you  
8 testify.

9 A. I'm just hoping not to go to jail.

10 Q. I understand that. But you're here to cooperate, hopefully  
11 to get some kind of benefit, aren't you?

12 A. I suppose.

13 Q. Sure. Well, you're not doing it out of the goodness of  
14 your heart, are you?

15 A. No.

16 Q. All right. And so let's talk about the steak fry, where  
17 you say the first deal was made with Vern Rich. You were wired  
18 up, right?

19 A. Pardon me?

20 Q. The first deal that you made with Vern Rich. We'll talk  
21 about the steak fry. Okay?

22 A. Okay.

23 Q. Now, the steak fry is something that's held all the time by  
24 the club?

25 A. Yeah.

1 Q. Am I right?

2 A. Yup.

3 Q. And what it is, is a big party?

4 A. Yup.

5 Q. How many people do you think were at the steak fry?

6 A. A hundred.

7 Q. At least a hundred, yes?

8 A. Yeah.

9 Q. And normally at these parties, there's alcohol?

10 A. Yup.

11 Q. There's marijuana?

12 A. Yeah.

13 Q. Marijuana brought by various people, so they can smoke  
14 their marijuana?

15 A. Right.

16 Q. Just like you would bring your own marijuana and smoke it,  
17 right?

18 A. Yup.

19 Q. Some people may have meth?

20 A. Yup.

21 Q. Some people may have cocaine?

22 A. Uh-huh.

23 Q. Yes?

24 A. Yup.

25 Q. Some people may have had pills?

1 A. Yup.

2 Q. All kinds of stuff that an individual could use if they  
3 wanted to?

4 A. Yup.

5 Q. Right?

6 A. Yup.

7 Q. And so you have to, to benefit yourself, make some kind of  
8 meth buy for the FBI; am I right?

9 A. Yeah.

10 Q. Because that's what they want. They want somebody -- they  
11 want you to get them meth, yes?

12 A. They want me what?

13 Q. They want you to buy meth.

14 A. Yeah.

15 Q. They are trying to build a case, yes?

16 A. Yes.

17 Q. All right. So what happens is they wire you up. And when  
18 they wire you up, you go in to buy some meth from Vern Rich?

19 A. Yes.

20 Q. Only you claim that Vern Rich doesn't give you the meth?

21 A. Yeah.

22 Q. That Gun Control gives you the meth?

23 A. Yeah.

24 Q. But he gives you the meth, as you described it, in a  
25 certain way, doesn't he?

1 A. Yeah.

2 Q. What he does is, he puts it in his hand and he conceals it?

3 A. Yeah.

4 Q. So nobody else knows what you're doing.

5 A. Right.

6 Q. The reason he concealed it is so nobody could see that you,  
7 in fact, were making a buy?

8 A. Right.

9 Q. So no other members of the club that could know or see that  
10 there's any drug dealing going on, right?

11 A. Right.

12 Q. Isn't that why it was concealed?

13 A. Yes.

14 Q. And the way he concealed it in his hand, you then concealed  
15 it, didn't you?

16 A. Yes.

17 Q. Because you wanted to make sure nobody saw what was going  
18 on?

19 A. Right.

20 Q. Because this is a private kind of a sale, isn't it?

21 A. Yes.

22 Q. And after the private sale, you stick it in your pocket?

23 A. Yeah.

24 Q. Am I right?

25 A. Yeah.

1 Q. You make some kind of excuse, I've got to get out of here?

2 A. Yup.

3 Q. For whatever reason?

4 A. Yup.

5 Q. And you leave.

6 A. Yup.

7 Q. All right. Now, you leave and you say that there's \$100  
8 that's given to you to go back and play a slot machine; am I  
9 right?

10 A. Yup.

11 Q. Now, those slot machines are there for the benefit of the  
12 club, aren't they?

13 A. Yup.

14 Q. I mean, what they do is the guys that are members of this  
15 club play the slot machine?

16 A. Correct.

17 Q. Sort of like pay-to-play poker in a house?

18 A. Yeah.

19 Q. And the money goes to the house?

20 A. Yup.

21 Q. So the slot machines are used to support the clubhouse  
22 itself, aren't they?

23 A. Yes.

24 Q. And the guys that play the slot machines are members of the  
25 DMC?

1 A. Right.

2 Q. They are the club members?

3 A. Yes.

4 Q. In their private club, they know they are playing this, so  
5 the money goes to the house; am I right?

6 A. Yes.

7 Q. Let's talk about the second buy. They wire you up to make  
8 a second buy of meth. This is the second one that you make.  
9 And this is at your place of business; am I right?

10 A. Yes.

11 Q. Your place of business at the time was located on  
12 Schoenherr Street?

13 A. Yes.

14 Q. Was it 23 Mile?

15 A. Yes.

16 Q. 24 Mile?

17 A. Yes.

18 Q. And so the jury understands, it's like a big place, isn't  
19 it?

20 A. Yes.

21 Q. Because you repair cars. You're also really good at cars,  
22 I hear, aren't you?

23 A. Yes.

24 Q. Where you can rebuild cars?

25 A. Yes.

1 Q. Hot rods?

2 A. Yes.

3 Q. Customize them?

4 A. Yes.

5 Q. Put those fancy wheels on it?

6 A. Yes.

7 Q. And so you've got a real big place?

8 A. Yes.

9 Q. You do the same thing with motorcycles?

10 A. Yes.

11 Q. Because you're a pro at that kind of stuff, aren't you?

12 A. Yeah.

13 Q. In fact, you've got a reputation in the motorcycle  
14 community for both people that are members of motorcycle clubs  
15 and just civilians, if I wanted to have a bike made that's  
16 custom, I ought to go see you?

17 A. Yes.

18 Q. Am I right or wrong?

19 A. Right.

20 Q. All right. So what happens is there's going to be a second  
21 buy that's, or a second sale that's going to be made over at  
22 your place of business?

23 A. Yes.

24 Q. It's going to be made, I guess there's other people that  
25 are inside where your place is; am I right?

1 A. Yes.

2 Q. Okay. And what I mean inside, they are not outside the  
3 business, they are inside?

4 A. Yes.

5 Q. The deal that's being made is between you and Pauli?

6 A. Yes.

7 Q. Nobody else knows about it, do they?

8 A. No.

9 Q. Because you don't tell anybody about it, do you?

10 A. No.

11 Q. And what you do is you go outside of the business to make  
12 the sale?

13 A. Yes.

14 Q. And you go outside of the business to make the sale, so  
15 it's just between you and him?

16 A. Yes.

17 Q. It's concealed?

18 A. Right.

19 Q. Just like the time you made the first sale?

20 A. Right.

21 Q. It's concealed, just between you and him?

22 A. Right.

23 Q. So everybody that was there that was inside of your  
24 business didn't know what was going on outside?

25 A. Right.

1    Q. And the meth that was handed to you, was meth -- was given  
2 to you in a Marlboro box?

3    A. Right.

4    Q. Which was concealed in the box like a pack of cigarettes?

5    A. Right.

6    Q. Because the box closes and you can't see through it unless  
7 you got x-ray eyes; am I right?

8    A. Right.

9    Q. So if I look at it, I'm going to see a box of cigarettes?

10   A. Right.

11   Q. A box of Marlboro Red, I think it was, wasn't it?

12   A. Yeah.

13   Q. Okay. And then we got the third sale, which occurs later.  
14 And this, again -- now, this sale is at your home?

15   A. Yeah.

16   Q. Am I right?

17   A. Yup.

18   Q. And you really have the same scenario. The sale is  
19 outside, in a car, which is private?

20   A. Yeah.

21   Q. Am I right?

22   A. Yup.

23   Q. Money and everything is transferred privately in the car?

24   A. Yes.

25   Q. Now, each one of those sales that was made to you, was an

1 individual sale, wasn't it?

2 A. Yes.

3 Q. It was a sale that was being made on behalf of Vern Rich?

4 A. Yes.

5 Q. And Vern Rich was getting the money?

6 A. Yes.

7 Q. And what Vern Rich was doing with the money, you don't  
8 know?

9 A. No.

10 Q. Right? He wasn't giving you any of the money?

11 A. No.

12 Q. He wasn't giving me any of the money, right?

13 A. Right.

14 Q. He was earning for himself?

15 A. Right.

16 Q. Sort of like an independent guy earning a couple bucks?

17 A. Right.

18 Q. Am I right?

19 A. Right.

20 Q. That's how you were when you were selling the marijuana,  
21 too, isn't it?

22 A. Huh?

23 Q. I'm sorry. You were independent when you were selling the  
24 marijuana; isn't that right?

25 A. Yes.

1    Q. You weren't selling the marijuana on behalf of anybody,  
2    were you?

3    A. Huh-huh.

4    Q. Is that a no?

5    A. No, I wasn't.

6    Q. Okay. You weren't sharing the money, were you?

7    A. No.

8    Q. The money was your money?

9    A. Yes.

10   Q. You take the risk, yes?

11   A. Yes.

12   Q. You make the sale?

13   A. Yes.

14   Q. You get to keep the proceeds?

15   A. Yes.

16   Q. That's how it works, isn't it?

17                 Let's talk about now -- may I have just a second,  
18   Judge?

19                 THE COURT: Yes. One more minute and we're going to  
20   recess, FYI.

21                 MR. SABBOTA: Do you want me to keep going?

22                 THE COURT: For one minute.

23                 MR. SABBOTA: Okay.

24   BY MR. SABBOTA:

25   Q. Let's talk about the way you defraud when you sell bikes,

1 all right? Do you understand what I'm saying, by defraud?

2 You did an insurance job on your bike?

3 A. Yes.

4 Q. Okay. An insurance job is a fraud, isn't it?

5 A. Yes.

6 Q. That's when you misrepresent to an insurance company facts  
7 about your bike.

8 A. Yes.

9 Q. What it is, is another lie.

10 A. Yes.

11 Q. Okay. You did that for an insurance scam; am I right?

12 A. Yes.

13 Q. And then based on this misrepresentation -- and you're  
14 pretty good at doing it, aren't you? You were back then.

15 Maybe not today, but back then, when you did that, you were  
16 pretty good at it, weren't you?

17 A. Yeah.

18 Q. Sure. And so what you do is, you have to misrepresent not  
19 only to the public, you've got to misrepresent to the agency  
20 known as the Secretary of State; yes?

21 A. Explain that one again?

22 Q. Sure. When you go to the Secretary of State to register  
23 the bike, you're not doing it honestly, are you? You're  
24 misrepresenting what the --

25 A. By that time, you are.

1 Q. Well, after you break it down.

2 A. No. After it's already put back together, it's legal.

3 Q. Okay. Well, you make it legal after you have

4 misrepresented to the insurance company, right?

5 A. Right.

6 Q. And part of the misrepresentation is you get to get paid?

7 A. I get what?

8 Q. You get to get paid by the insurance company. Don't they

9 pay you?

10 A. Yeah.

11 Q. All right. And you used to do that a lot, didn't you?

12 A. Yup.

13 Q. How many times do you think, between 2000 and 2009, did you

14 pull an insurance fraud?

15 A. Did I, my -- personally?

16 Q. Yeah. Or assist somebody else in pulling one.

17 A. Or assist somebody?

18 Q. Yeah.

19 A. Just two.

20 Q. Two?

21 A. Two.

22 Q. How many stolen bikes did you put together over the period

23 from 2000 to 2009?

24 A. Four.

25 Q. Four.

1                   THE COURT: Okay. We'll pick it up on Wednesday  
2 morning, Mr. Sabbota.

3                   MR. SABBOTA: All right. Thank you, Judge.

4                   THE COURT: We'll recess in just a moment, ladies and  
5 gentlemen of the jury.

6                   You'll put your books away and we're having a  
7 pre-scheduled day of other activities tomorrow in court and  
8 with the attorneys and so forth with other obligations.

9                   We'll pick up Wednesday's session on the same schedule  
10 as today. It is an all-day session, as is Thursday's. Friday,  
11 I remind you, is a partial day session. So otherwise, I  
12 suppose thought of as an early start to the weekend. But I  
13 appreciate your attention and your attendance here today. Put  
14 the matter off your minds. Again, no discussion, reading or  
15 writing about the case while you're away from court, please.

16                   You may rise and leave. And we stand in recess.

17                   COURT REPORTER: All rise.

18                   (Jury out, 4:41 p.m.)

19                   (Proceedings concluded, 4:41 p.m.)

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2                   **CERTIFICATE OF REPORTER**

3

4                   As a Federal Official Court Reporter for the United  
5 States District Court, appointed pursuant to provisions  
6 of Title 28, United States Code, Section 753, I do hereby  
7 certify that the foregoing is a correct transcript of  
8 the proceedings in the above-entitled cause on the date  
9 hereinbefore set forth.

10

11

12                   Dated this 20th day of October.

13

14                   s/ Christin E. Russell

15                   Christin E. Russell  
RMR, CRR, FCRR, CSR  
Federal Official Court Reporter

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